University of Alberta

The Governance and Administration of the Palatinate and Diocese of Durham in Late Medieval and Tudor England

by

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Abstract

The contrary themes of change and continuity highlight historiography about sixteenth-century England. These two themes are embodied in the governance of the palatinate of Durham, a semi-autonomous region in the north of England, in the medieval and early modern periods. As an ecclesiastical palatinate under the jurisdiction of a bishop, Durham was unique from the other palatinates of the kingdom in the medieval period, Chester and Lancaster. This thesis establishes that Durham remained a viable polity in the sixteenth century whose officers exercised privileges independent from the crown. The mid-Tudor period (1530-1569), which has been depicted by historians as one of termination for the palatinate, in reality witnessed the alteration of those rights. The changes that occurred in the administration of the palatinate were indirect consequences of the religious and political reformations, and also resulted from conflicts in the personal relationship between the bishop and his sovereign. The administration of justice in Durham is highlighted as an example of the bishop's continued authority in local government. The study of Durham in the late medieval and early modern periods, with a special emphasis on the mid-sixteenth century, as a semi-autonomous region within the kingdom will contribute to the understanding of Tudor state building and the local influence of the Tudor reformations.

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Glossary of Terms

Apparitor: An officer of an ecclesiastical court.

Assizes: The word is commonly used to describe a system of traveling courts that developed under Henry II and were used until 1971. The word was also used to describe legal proceedings and acts associated with those courts: a) a session of the official body, such as the king's council; b) edicts or enactments made at such sessions; c) the forms or actions instituted by such edicts.

Attainder: Acts of attainder were bills in parliament used in treason cases whose purpose was to deny the accused a proper legal trial and set aside the normal rules for evidence and force the forfeiture of the accused's property, goods and title.

Bailiwick: A bailiwick is the area of jurisdiction of a bailiff. The term was also applied to a territory in which the sheriff's functions were exercised by a privately appointed bailiff under a crown grant.

Chancellor: A spiritual chancellor for a bishop or a diocese: a law officer, who acts as vicar-general for the bishop, and holds courts for him, to decide on cases tried by ecclesiastical law. In the general sense a temporal chancellor acts as a secretary.

Chancery: The chancery originally developed as a writing office for the issuing of charters and writs, under the supervision of the chancellor who was also in possession of the great seal. By the fourteenth century, the chancery also developed a court of law, presided over by the chancellor, whose jurisdiction became known as equity. The chancery court of equity did not administer justice according to common law and was not bound by statute and precedent until legal reforms in the nineteenth century.

Chapter: a) A duly constituted general meeting or assembly of the canons of a collegiate or cathedral church, of the members of any monastic or religious order, or of an order of knights, for consultation and transaction of the affairs of their order; b) As the court for the trial and discipline of offences against ecclesiastical law; c) The members of such assembly collectively as a permanent body, e.g. The body of canons of a collegiate or cathedral church, presided over by the dean.

Dean: The head of the chapter or body of canons or prebends of a collegiate or cathedral church.

Disseisin: The act or fact of disseising; usually, the wrongful dispossession, by forcible entry or otherwise, of the lands, etc. of another. Since the fifteenth century, the term is not used to describe the wrongful dispossession of movable goods, or in cases in which the dispossessed person was tenant at will or tenant for years.

Epistoler (*epistler*): A member of the clergy who reads the epistle at the communion service.

Equity: A system of law designed to furnish remedies for wrongs which were not legally recognized under the common law of England or for which no adequate remedy was provided by the common law.

Escheats: n. The reversion of land to the lord when the tenant died without leaving a successor qualified to inherit under the original grant. Hence, the lapsing of land to the Crown, or to the lord of the manor, on the death of the owner intestate without heirs. v. To make an escheat of, confiscate.

Eyre: The general eyre dates from the reign of Henry I and was a commission issued to the king's justices who traveled around the country every few years. The powers granted by a commission of eyre were broad, were supplanted by the assizes in the thirteenth century, and gradually faded in the fourteenth century.

Gospeller: The term names a liturgical function, referring to a member of the clergy who reads the gospel. A deacon normally reads the gospel when present at the Eucharist.

Halmote: The court of the lord of a manor, held in the hall; a court-baron.

Interdict: a) To declare authoritatively against the doing of an action or the use of a thing; b) to forbid, prohibit; to debar or preclude by or as by a command; c) to restrain a person by authority from the doing or use of something; to forbid to do something; to debar or preclude from something; d) To cut off authoritatively from religious offices or privileges; to lay a place or person under an interdict.

Letters Patent: Letters under the great seal embodying a grant by the crown of land, office, right, liberty or monopoly of a trade or invention.

Mort d'ael: A writ bringing an action where a man's grandfather was seized of his lands and tenements in fee simple on the day he died, and a stranger abated or entered the same day, and dispossessed the heir of his inheritance.

Mort d'ancestor: An assize brought by the rightful heir against a person for wrongfully taking possession of his or her inheritance on the death of an ancestor.

Novel Disseisin: Disseisin of a fresh or recent date. Assize of Novel Disseisin was an ordinance of Henry II establishing an action at law for the recovery of the seizure of land by one who had himself been recently dispossessed; also the action thus established.

Oyer and Terminer: A commission of oyer and terminer was issued to justices to visit each shire and receive the presentments of those suspected of crimes and to hear each case.

Palatinates: were border regions where security of the realm demanded that the local rulers should have special powers, particularly to raise troops and administer justice.

Post Mortem: From the Latin, after death. Usually referred to in wills, estates or tax matters. An examination post mortem is an examination made of a dead body to ascertain the cause of death; an inquisition post mortem is one made by the coroner. The action of investigating the nature, qualities, or condition of any object by inspection or experiment.

Praemunire: The first Statute of Praemunire was passed in 1351, and was intended to prevent the pope from interfering with the king's right to appoint to clerical benefices in England. The statute imposed judicial penalties on any one removing a case that belonged in the king's court to the jurisdiction of the papacy.

Prebend: The portion of the revenues of a cathedral or collegiate church granted to a canon or member of the chapter as his stipend. The separate portion of land or tithe from which the stipend is gathered. The holder of these benefits is known as a prebendary and occupies a prebendal stall.

Prior: A superior officer of a religious house or order. In an abbey, the officer next under the abbot, appointed by him to exercise certain authority, maintain discipline, and preside over the monastery in his absence. In monastic cathedrals, in which the bishop took the place of abbot, the prior was the actual working head of the abbey.

Privileges of Wreck and Fish: The right of the lord of a manor to the wreckage of ships and to possess fish in the waters on or adjacent to his land.

Quarter Sessions: The justices of the peace for each county were required to meet four times a year to deal with minor felonies and misdemeanours.

Quo Warranto: Legal proceedings that were instituted by Edward I on his ascension to the throne in 1272, whereby the king's justices investigated every claim to the right to hold a judicial franchise, such as a hundred court. Judicial franchises could either be held by a grant or by prescription.

Recognizance: A bond or obligation, entered into and recorded before a court or magistrate, by which a person engages himself to perform some act or observe a condition, for example, to appear when called on, to pay a debt, or to keep the peace; also, a sum of money pledged as a surety for such performance and rendered forfeit by neglect of it.

Sede Vacante: a) the vacancy of a see or seat; b) during the vacancy of an episcopal see.

Wapentakes: A subdivision of English shires in the north derived from ancient Danelaw corresponding to the "hundred" in other counties.

Wardship: a) the office or position of guardian; b) the guardianship and custody of the person and lands of a minor with all profits accruing during his minority.

List of Abbreviations

A.A.	*Archaeologia Aeliana*
C.C.R.	*Calendar of Close Rolls*
C.P.R.	*Calendar of Patent Rolls*
C.S.P.	*Calendar of State Papers, Domestic*
C.S.P. For	*Calendar of State Papers, Foreign*
C.Y.S.	Canterbury and York Society
D.U.J.	*Durham University Journal*
E.H.R.	*English Historical Review*
Ec.H.R.	*Economic History Review*
H.M.S.O.	His/Her Majesty's Stationary Office
H.T.	*History Today*
J.Ec.H.	*Journal of Ecclesiastical History*
L.I.S.	List and Index Society
L.P.	*Letters and Papers, Foreign and Domestic, of the reign of Henry VIII*
N.H.	*Northern History*
O.D.N.B.	*Oxford Dictionary of National Biography*
P.C. Reg.	*Privy Council Registers*
P.H.	*Parliamentary History*
P.R.O.	Public Record Office
R.S.	Rolls Series
S.S.	Surtees Society
Sel. Soc.	Selden Society
Trans.C.W.A.A.S.	*Transactions of the Cumberland & Westmorland Archaeological and Antiquarian Society*
Trans.R.H.S.	*Transactions of the Royal Historical Society*

Introduction

The Tudor administration of Durham is characterized by negotiation and compromise on the part of the officials of the palatinate and the crown. The objectives of this thesis are two-fold. The first is to refute an established historiographical tradition which claims that the palatinate of Durham lacked the prestige and privileges it possessed in the thirteenth century. Instead I argue that Durham remained a viable polity in the sixteenth century, and thus, a study of its administration during this period is vital to understanding both early modern state building and the progress of the Tudor reformations. The second objective is to take historiography about early modern Durham in a new direction, by seeing 1530 to 1569, not as a period that witnessed the end of palatine administration, but rather, as a period of transition, in which the officers of Durham and the crown cooperated, negotiated and compromised to effectively govern the palatinate. This is accomplished by examining the roles of the leading officers of the palatinate and the administration of justice in Durham in the mid-Tudor period.

There is no scholarly consensus on the definition of a palatinate or even whether the term is applicable to jurisdictions in England prior to the fifteenth century, when it acquired constitutional meaning. The term palatinate first appeared in reference to Durham and Chester in 1293. During the twelfth and thirteenth centuries, however, there was no common definition of a palatinate in England. In the eighteenth century, William Blackstone provided the now generally accepted description, defining those who held palatine privileges as possessing the right to pardon treasons, murders and other felonies, and administer justice by appointing justices of the peace.[1] T.F.T. Plucknett defined

[1] W. Blackstone, *Commentaries on the Laws of England*, v. 1, (Chicago: University of Chicago Press, 1979), 113-14.

palatine counties as those "exempt or almost so, from royal jurisdiction," particularly in the field of judicial competency.[2] William Stubbs defined palatinates as "earldoms in which the earls were endowed with the superiority of whole counties, so that all the landowners held feudally of them, in which they received the whole profits of the courts and exercised all the regalia or royal rights, nominated the sheriffs, held their own councils and acted as independent princes except in the owing of homage and fealty to the king."[3] G.T. Lapsley identified the origin of the term *comes palatii* in the Roman Empire and its associated privileges as being defined and expanded in the Merovingian and Carolingian periods. The idea of the *comes palatii* was received in England when Norman nobles involved in the Conquest applied the term to peculiar jurisdictions existing in Anglo-Saxon England. The term gradually became part of the standard legal terminology in late medieval England, although it does not appear to have carried any constitutional definition in England until the fifteenth century.[4] All the definitions of the palatinate convey some idea of independence in the realm of judicial competence and in land-holding. Although Durham, Chester and Lancaster may not have held all of the above-mentioned privileges simultaneously, the use of the term palatinate can be applied to these regions prior to the fifteenth century to denote their respectively unique jurisdictions with some of these characteristics in distinction from other English counties.

Despite the common term palatinate, the franchises of Chester, Durham and Lancaster in fact shared no common identity or origin, nor possessed identical

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[2] T.F.T. Plucknett, *A Concise History of the Common Law*, 5th ed., (London: Butterworth, 1956), 99, 160.
[3] W. Stubbs, *The Constitutional History of England in its Origins and Development*, v. 1, 6th ed. (Oxford: Clarendon Press, 1903), 294.
[4] G.T. Lapsley, *The County Palatine of Durham*, (Cambridge, MA: Harvard University Press, 1901), 3-9; J. Scammel, "Origin and Limitations of the County Palatine of Durham," *E.H.R.* 81:320 (1966), 450-1; C.M. Fraser, *A History of Antony Bek, Bishop of Durham, 1283-1311*, (Oxford: Clarendon Press, 1957), 95-6.

privileges.[5] The foundation of the palatinates of Chester and Durham is contested among historians. It is generally accepted among scholars of Chester that William the Conqueror created that palatinate in 1071 as a buffer against the Welsh.[6] The origins of the palatinate of Durham are obscured by the absence of a royal charter granting palatine privileges to the northern franchise, but historians have concluded that the privileges of Durham are derived from the immunity of the church of St. Cuthbert (the region's patron saint) from external and secular governance. The duchy of Lancaster has its origins as part of the patrimony of the house of Lancaster. The duchy was comprised of lands forfeited by Simon de Montfort, earl of Leicester, for his rebellion in 1265 and 1266 and of the lands of Robert Ferrers, earl of Derby, to King Henry III. The monarch granted these lands to his younger son, Edmund, who held them under the title of Duke of Lancaster, as did the younger sons of the later Plantagenets. In 1335 Edward III raised Lancaster to a county palatine and created Edmund's grandson, Henry Grosmont, first Duke of Lancaster. Henry died without male issue and the inheritance passed to his daughters, Blanche and Maude. John of Gaunt, son of Edward III, acquired the inheritance through his marriage to Blanche and in 1390 the palatinate was granted to his heirs forever. When John's son, Henry of Bolingbroke, usurped the crown from Richard II in 1399, the newly crowned Henry IV reclaimed his right of inheritance to the duchy through his mother Blanche. The titles of duke and king were thenceforth invested in the same person, beginning with Henry IV.

All three palatinates shared exemption from certain facets of royal administration. Cheshire and Durham were excluded from royal taxation, the former until 1547 and the

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[5] Scammel, "Origin and Limitations of Durham," 450.

[6] For the debate on the origins of the palatinate of Chester see J.W. Alexander, "New Evidence on the Palatinate of Chester," *E.H.R.* 85:337 (1970), 715-18.

latter until 1610, although both were capable of voting their own taxes to the crown. Neither palatinate had an extensive record of chancery cases going before the Westminster courts. The palatinate of Chester was granted a chancery in 1351, which was exercising equity jurisdiction by 1484. As early as 1267, the Duchy of Lancaster was accounting for its sums at the royal exchequer, and the king received fines, amercements and forfeited issues.[7] In re-founding the duchy in 1377, Edward III granted John of Gaunt an independent chancery. Durham had a chancery that administered both diocesan and secular business from the twelfth to the mid-fourteenth centuries when the chancery was divided and an equity jurisdiction developed.[8] Another example of regional integration is representation in parliament. Chester was un-represented until 1543, and Durham had no representation until 1672.

The duke had the administration of the law courts in Lancaster and appointed his own sheriffs, justices of the peace and other senior officials. Chester was outside the kingdom's legal proceedings until quarter sessions were introduced in 1536. In Durham, the early judicial privileges of the palatinate were confirmed in the *Quo Warranto* proceedings of Edward I. Like the duke of Lancaster, the bishop of Durham had the authority to appoint his own justices and officers to the exclusion of royal officials. The bishop had a gallows, right to hold markets and fairs, and his own mint. The bishops and their bailiffs sought the articles of the crown from the justices itinerant and held pleas by

[7] R. Somerville, *The Duchy of Lancaster, v. 1, 1265-1603* (London: Chancellor and Council of the Duchy of Lancaster, 1953), 10-11.
[8] Scammel, "Origin and Limitations of Durham," 455-6.

the bishop's writ in his liberties.[9] Durham had quarter sessions dating from 1471, and possibly even earlier.[10]

There is one difference among the three palatinates that needs special emphasis: the lands within the franchise of Durham were never, unlike Chester and Lancaster, in the possession of the crown after the Norman Conquest. Chester and Lancaster were royal palatinates; Durham, however, was an ecclesiastical palatinate whose lands belonged to the church. It is from its status as church land that its immunities developed. The crown gained possession of the palatinate of Chester on the death of the earl, John, in 1237, without male issue. The palatinate lands were initially divided among John's co-heirs, descendants of his sisters. In the course of the legal trial, however, the crown negotiated the acquisition of these lands in exchange for lands elsewhere in the kingdom. In 1254, Henry III granted by charter the county of Chester with its castles and lands in North Wales, to his son, the future Edward I, to be his and heirs' on the condition that the lands were never separated from the crown.[11] Edward IV joined the lands of Lancaster to the crown in 1461.[12]

Several northern historians have posited that the administrative structure of Durham must have maintained viable rights into the sixteenth century since it provided the model for the founding charters of the New England colonies.[13] The reforms of

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[9] *Records of Antony Bek, Bishop and Patriarch, 1283-1311*, ed. C.M. Fraser, S.S., v. 162, (Durham: Andrews, 1953), 37-9.

[10] *Durham Quarter Sessions Rolls, 1471-1625*, ed. C.M. Fraser, S.S., v. 199, (Newcastle: Athenaeum Press, 1991), *passim*.

[11] R. Stewart-Brown, "The End of the Norman Earldom of Chester," *E.H.R.* 35:137 (1920), 52.

[12] H. Castor, *The King, the Crown and the Duchy of Lancaster: Public Authority and Private Power, 1399-1461* (Oxford: Oxford University Press, 2000), 312.

[13] See K. Emsley and C.M. Fraser, *Courts of the County Palatine from the earliest times to 1971* (Durham: Durham County Local History Society, 1984), 2; T. Thornton, "Fifteenth-Century Durham and the problem of provincial liberties in England and their wider territory of the English crown," *Trans. RHS*, 6th Ser., 11

Henry VIII replaced the bishop with the king as titular head, but the palatinate continued to exercise its privileges independently. As stated above, Durham cases were not tried outside of the palatinate, nor were inhabitants of the palatinate subjected to the parliamentary taxes known as the fifteenth or the tenth until after the ascension of the Stuarts.[14] The bishop continued to appoint the palatinate's temporal officials. He was entitled to escheats of land, wardship and to land forfeitures of rebels and also maintained the rights to admiralty, wreck and fish.[15]

Far from being an archaic relic of the past, English medieval jurisdictions provided the model for later imperial forms. In proprietary grants, such as those to Lord Baltimore for Avalon and Maryland, the phrase "to have, exercise, use and enjoy the same, as amply as any Bishop of Durham, within the bishopric, or county palatine of Durham" was regularly used.[16] The administrative structure of Durham was most thoroughly copied in the creation of the judicial courts in Maryland. Before the split of the General Assembly in Maryland into two houses, upper and lower, the Assembly met as both a legislative body as well as a law court, which mimicked the early practice of the bishop's council in Durham.[17] The division of Maryland into hundreds and manors for the primary purpose of administering justice was also copied from the judicial structure

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(2001), 83-100 and "The Palatinate of Durham and the Maryland Charter," *American Journal of Legal History* 45 (2001), 235-255.

[14] Thornton, "Durham and the Maryland Charter," 242; Thornton, "Fifteenth-Century Durham," 93.

[15] Thornton, "Durham and the Maryland Charter," 243-4.

[16] "The Charter of Maryland" in *A Relation of Maryland,* March of America Facsimile Series, 22 (Ann Arbor, MI: University Microfilms, 1966).

[17] N.D. Mereness, *Maryland as a Proprietary Province* (Cos Cob, CT: J.E. Edwards, 1968), 228-9.

of Durham.[18] The proprietary colony of Avalon, Newfoundland was also a partial imitation of Durham, and Maine was modeled on the palatinate of Chester.[19]

The early development of a modern nation state in England in the sixteenth century has received much attention from scholars.[20] The effective governance of England's border regions was fundamental to this development. There was frequent tension between the crown administration of common law and royal institutions, and the necessity for special defensive arrangements, which may have been exacerbated by the inability of the government's centralized system to become adaptable to local conditions. Royal presence in the north was strongest under Richard Duke of Gloucester, later King Richard III, who held extensive property and accompanying liberties in the north. The royal policy towards the north in the late fifteenth and early sixteenth centuries was reactive to the Wars of the Roses, in which the leading northern families supported the Lancastrian party.[21] In what S.G. Ellis has identified as the first phase of Tudor policy towards the north, Henry VII, who was primarily concerned with securing his new

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[18] Ibid., 401.

[19] Thornton, "Durham and the Maryland Charter," 247; W.J. Jones, "Palatine Performance in the Seventeenth Century," in *The English Commonwealth 1547-1640: essays in politics and society presented to Joel Hurstfield,* eds. Clark, P., A.G.R. Smith and N. Tyacke, (Leicester: Leicester University Press, 1979), 190.

[20] There is debate among scholars about whether it is appropriate to refer to England as a nation state before the nineteenth century. Those who argue that it is possible to see the makings of a nation state in the sixteenth century are: G.R. Elton, *Tudor Revolution in Government: Administrative changes in the Reign of Henry VIII* (Cambridge: Cambridge University Press, 1953); A.G.R. Smith, *Emergence of a Nation State: the commonwealth of England 1529-1660* (London: Longman, 1984); J. Guy, *Tudor England* (Oxford: Oxford University Press, 1988) who believes that by the second half of Elizabeth's reign we can talk about a state in the modern sense; S.G. Ellis, *Tudor Frontiers and Noble Power: The Making of the British State* (Oxford: Clarendon Press, 1995) argues that the English Pale and northern England were regional variations in a single English nation. Other historians contend that a nation state did not develop in the early modern period: C. Haigh, *English Reformations: religion, politics and society under the Tudors* (Oxford: Clarendon Press, 1993); C. Coleman and D. Starkey, eds., *Revolution Reassessed: Revisions in the History of Tudor Government and Administration* (Oxford: Clarendon Press, 1986); P. Williams, *The Tudor Regime* (Oxford: Clarendon Press, 1979); M. Braddick, *State Formation in Early Modern England, c.1550-1700* (Cambridge: Cambridge University Press, 2000) who uses a loose definition of a state that is not equivalent to a nation state of the nineteenth and twentieth centuries.

[21] Ellis, *Tudor Frontiers and Noble Power*, 44.

dynasty, allowed the Council of the North to lapse and reduced the financial resources available to the wardens, thus threatening the peace and security of the region.[22] The ascension of the Tudors marked the beginning of a period of crisis, which resulted in increased instability and a greater threat of invasion from Scotland.[23]

The governance of the north depended on the crown's relationships with its ecclesiastical and secular nobility. In the early sixteenth century, the royal government continued to manage the country through personal relationships with its leading subjects, which are best described as symbiotic.[24] The nobility served as informal networks for the central government in the localities and a personal link between the provinces and the monarch.[25] The early Tudor period witnessed the rise of a new kind of nobleman whose power was based on service to the crown, although traditional magnates continued to be very important, especially in the north.[26]

Early Tudor policy did not consciously attempt to undermine the power and authority of the northern nobility. The removal of Thomas Lord Dacre from the wardenry of the marches in 1524, and the discharge of his successor, Lord Clifford, only two years later, do not constitute part of a larger policy for purging powerful magnates, but were responses to the ineffectiveness of both lords in securing the border.[27] The Tudors, in fact, created their own problems, having cut the payments to the wardens by almost 90%, dooming the wardens appointed thereafter to failure.[28] Furthermore, the

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[22] Ibid., 34, 51.
[23] Ibid., 56, 77.
[24] G.W. Bernard, *The Power of the Early Tudor Nobility: A Study of the Fourth and Fifth Earls of Shrewsbury* (Sussex: Harvester Press, 1985), 173.
[25] H. Miller, *Henry VIII and the English Nobility* (London: Basil Blackwell, 1986), 256.
[26] S.J. Gunn, *Early Tudor Government, 1485-1558* (New York: St. Martin's Press, 1995), 28.
[27] Bernard, *Power of the Early Tudor Nobility*, 199-201.
[28] Gunn, *Early Tudor Government*, 63.

incessant reversals generated by the cyclical ascents and descents of the leading northern families created a self-fulfilling prophecy of the belief that the magnates promoted disorder.[29] The bishops of Durham were themselves powerful peers with extensive lands at their disposal. The relationship between the bishops and the crown needs to be considered in the context of crown-noble relations, further complicated by the bishops' spiritual obligations. The ability of the bishops and their officials to administer Durham was certainly affected by the conventional tensions between the crown and their nobility, exacerbated by the uprising known as the Pilgrimage of Grace in 1536. Unlike M.E. James's position that the nobles naturally coalesced to resist kings, however, the relationship between the crown and its nobles was not a one-sided dialectic of conflict and resistance, but was much more complex.[30] The governance of the provinces through cooperation between the crown and the nobility brought mutual benefits.

These changes were occurring against the background of great political and religious upheaval in England and the continent. Historians have applied the term "reformation" to a series of events in the sixteenth century in order to create the appearance of a coherent movement that is linked often by no more than chronology.[31] The word reformation has become a useful term with which to describe the mid-sixteenth century in England; however, it must be used with greater caution than has previously

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[29] Ibid., 65.

[30] M.E. James, *Society, Politics and Culture: Studies in Early Modern England* (Cambridge: Cambridge UP, 1986), 351, 354-6.

[31] For a narrative on the events of the reformations see: G.W.O. Woodward, *Reformation and Resurgence* (London: Blandford Press, 1963), 64; G. Redworth, "Whatever Happened to the English Reformation?," *H.T.* 37:10 (1987), 30; C. Cross, *Church and People 1540-1660: the Triumph of the English Laity* (Atlantic Highlands, NJ: Humanities Press, 1976); A.G. Dickens, *The English Reformation* (New York, Schocken Books, 1964); G.R. Elton, *Reform and Reformation: England 1509-1558* (London: Arnold, 1977); Haigh, *English Reformations*; N.L. Jones, *The English Reformation: religion and cultural adaption* (Oxford: Blackwell, 2002); J.J. Scarisbrick, *The Reformation and the English People* (Oxford: Blackwell, 1984); F. Heal, *Reformation in Britain and Ireland* (Oxford: Oxford University Press, 2003).

been demonstrated by historians. Christopher Haigh, who aptly titled his major monograph on the period *English Reformations,* has pointed out that there were multiple reformations in England that were not local manifestations of *the* Reformation happening concurrently on the continent.[32] Haigh emphasizes that there were three political reformations - a Henrician reformation from 1530 to 1538; an Edwardian reformation from 1547 to 1553; and an Elizabethan reformation that occurred between 1559 and 1563 – all three of which were paralleled by an evangelical reformation that began in the 1530s, and continued intermittently until the end of the century.[33]

The nature of the sixteenth-century religious reformation and the degree of its success is a subject of debate among scholars. In the 1960s, A.G. Dickens argued that the reformation was effected quickly through a process of popular religious conversion. Protestantism, according to this view, was inherently attractive and led to the swift conversion of the populace.[34] Strong roots for sixteenth-century Protestantism in England could be found in the fourteenth-century heresy Lollardy, which fuelled anti-clericalism and prepared the ground for later Protestant doctrines.[35] While Lollardy retained its strength in some areas of the country into the sixteenth century, particularly the towns of Bristol and Coventry, it was virtually extinguished in the north by the early fifteenth century.[36]

In the early sixteenth century, discontent was voiced with auricular confession, clerical celibacy, non-residency, pluralism, and the ecclesiastical courts and their

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[32] Haigh, *English Reformations*, 12-3.
[33] Ibid., 14.
[34] Dickens, *English Reformation*, 325.
[35] R. O'Day, *The Debate on the English Reformation*, (London: Methuen, 1986), 130, 137; Haigh, *English Reformations*, 51.
[36] Cross, *Church and People*, 26, 40.

sanctions.[37] Complaints directed towards the church by the laity, however, are not indicative of devotion to Protestantism and the numbers of Protestants in England remained too small to have much effect on the liturgy of the realm at the time. The theory that the increasing influence of Protestantism was the impetus behind the reformation rests on two assumptions that have been effectively questioned by recent scholars. The first assumption posits that the Catholic Church failed to command the respect and commitment of the people, which left them susceptible to new ideologies. The second claims that the practice of Protestantism was attractive at the popular level.[38]

Beginning in the late 1970s, another group of historians argued that traditional Catholic piety remained strong until the 1530s, when the crown imposed a religious and political reformation on the populace.[39] Evidence supporting the strength of late medieval Catholicism is found in the number of chantry foundations and the amount of church construction in the 1530s, the popularity of traditional religious treatises, donations in kind to parish churches, money donations for church building and repairs, bequests to the Observant orders of friars and for prayers and masses for the dead.[40]

Current historiography maintains that people could retain their traditional belief system, while simultaneously participating in the events of the Reformation. Robert Whiting contends that more important than individuals' devotion to Protestantism were

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[37] C. Russell, *Crisis of Parliaments: English History 1509-1660* (Oxford: Oxford University Press, 1971), 63-4; Haigh, *English Reformations*, 49.

[38] C. Haigh, "Introduction," in *English Reformation Revised*, ed., C. Haigh (Cambridge: Cambridge University Press, 1987), 6.

[39] R. O'Day, *Debate*, 110; C. Haigh, "Introduction," *The English Reformation Revised*, 4-5; R. Hutton, "The Local Impact of the Tudor Reformations," in *The English Reformation Revised*, 115; E. Duffy, *The Stripping of the Altars: Traditional Religion in England 1400-1580* (New Haven, CT: Yale University Press, 1992), 4; Scarisbrick, *Reformation and English People*, 54; C. Haigh, *Reformation and Resistance in Tudor Lancashire* (Cambridge: Cambridge University Press, 1975), 63.

[40] R. Whiting, *The Blind Devotion of the People: Popular religion and the English Reformation* (Cambridge: Cambridge University Press, 1989), 264; Haigh, *English Reformations*, 28; Haigh, *Tudor Lancashire*, 72; Scarisbrick, *Reformation and English People*, 3-5.

the secular motivations that prompted people to acquiesce in the Reformation and in some cases to participate actively in the destruction of traditional religion: a sense of duty, xenophobia, desire for moral freedom, financial calculation or physical fear.[41] Eamon Duffy has stated that compliance with the Reformation did not equal conformity with Protestant theology.[42] The success of the Reformation depended on the collaboration of the people with the wishes of the sovereign. Thus, the Reformation should not be understood as popular in the sense that Protestantism was widespread, but rather, in the sense that the people were active in negotiating what type of reformation was implemented and helped to construct its cultural meanings.[43] Ethan Shagan claims that the Reformation was less about religion than it was about loyalty to the sovereign. By defining opposition to the royal supremacy as treason, the issues of ecclesiastical authority and worldly obedience became fused.[44] According to Post-Revisionism, it was possible for people who did not adhere to Protestant doctrine to participate in the reforming process.

Research on the Henrician political reformation continues to revolve around the work of constitutional historian G.R. Elton. The reforms introduced in the 1530s by the king's chief minister, Thomas Cromwell, allowed the Henrician government to shed the vestiges of its medieval style of governance located in the household; in its place was created a nationally organized bureaucracy that established the paradigm for subsequent early modern governments.[45] Cromwell's reforms were intended to strengthen the central

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[41] Whiting, *Blind Devotion of the People*, 259.
[42] Duffy, *Stripping of the Altars*, 5.
[43] E. Shagan, *Popular politics and the English Reformation* (Cambridge: Cambridge University Press, 2003), 22.
[44] Ibid., 51.
[45] Elton, *Tudor Revolution in Government*, 415-6, 424-5.

government and the power of its writs in the provinces, and to provide a countrywide uniformity in secular and religious governance.[46] His most important innovation was the creation of an organized inner council of leading nobles and some non-noble ministers, the Privy Council.[47] Later historians have effectively questioned Elton's thesis that Cromwell personally initiated the government's policies of reform, many of which existed before Cromwell's rise to prominence as the king's Secretary and Vicegerent. Current consensus holds that the significance of the 1530s and 1540s, and the scale of the changes effected in those decades, was not as great as once maintained.[48]

The religious reformations continued under the Edwardian Council and involved the propagation of a protestant liturgy.[49] The Elizabethan religious reformation involved liturgical modifications that balanced between Catholicism and Protestantism. The reformations should not be seen as inevitable developments, caused by a particular social group, either members of parliament or protestants. Instead, the reformations were the product of a series of conflicts and crises, and the social and political circumstances of the country that caused the speed and progress of the implementation of the reformation to vary between regions. The most significant consequence of the break with Rome and Henry's assumption of the supreme headship was the new political power brought to the crown. The reformations subordinated the church to the lay authority of the crown and parliament, which enhanced their status vis-à-vis the church. For the country as a whole, reformation meant significant socio-political changes in the provinces and an altered relationship between the crown and the periphery.

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[46] Smith, *Emergence of a Nation State*, 36.
[47] Ibid., 39; Elton, *Tudor Revolution*, 415; O'Day, *Debate*, 117, 119.
[48] See, for example, Scarisbrick, *Reformation and English People*; Guy, *Tudor England*; S.W. Haas, "Henry VIII's Glasse of Truthe," *History* 64 (1979), 353-62.
[49] C. Haigh, "The Recent Historiography of the English Reformation," *H.J.* 25:4 (1982), 995-6.

The major histories of the reign of Henry VIII and the religious and political reformations have had little to say about Durham. Those histories that mention Durham do so only to illustrate the effectiveness of Cromwell's centralizing policies and the end of the palatine liberties.[50] Others treat Durham solely as a diocese and disregard its palatine status.[51] By ignoring an anomaly such as Durham, historical arguments for effective Tudor centralization and state building have been easily defended.

This thesis utilizes printed primary sources and secondary scholarly material. The Surtees Society has published a wealth of information pertaining to the early palatinate and the monastery at Durham, from monastic account rolls to bishops' registers to quarter sessions rolls. The specific registers used from the medieval period were those of Antony Bek, Richard Kellawe, Thomas Langley, and Richard Fox. The only registers published for the early modern period are those of Cuthbert Tunstall and James Pilkington, which appear as a single volume spanning the years 1530 to 1575. The Durham quarter sessions rolls, which cover the period from the earliest extant roll in 1471 to the end of the reign of James I in 1625, edited by Constance Fraser, provides the only printed judicial sources for the palatinate in the sixteenth century. Indirect references to justice in the palatinate were obtained from the *Letters and Papers of Henry VIII*, the *Calendars of State Papers*, both foreign and domestic, and the *Calendars of Patent Rolls*, which also provided references to the Council of the North. Ecclesiastical cases from the sixteenth century have been published by the Surtees Society, edited by James Raine. The List and Index Society and the Selden Society have published volumes from the Westminster courts for

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[50] Smith, *The Emergence of a Nation State*, 36-7; Elton, *England under the Tudors*, 107, 176, 412; Williams, *Tudor Regime*, 447, 461. Discussion of Durham's palatine status and its consequence for Tudor state building is conspicuously absent from Elton's *Tudor Revolution in Government*.

[51] Dickens, *The English Reformation*; Scarisbrick, *Reformation and the English People*; Haigh, *English Reformations*; Heal, *Reformation in Britain and Ireland*.

the Tudor period. Other important sources include the *Statutes of the Realm*, published by the Record Commission in London, *Statutes at Large*, published by J. Bentham in Cambridge, *Privy Council Registers*, produced by His Majesty's Stationary Office, and wills from the northern counties, also published by the Surtees Society.

Traditional historiography about Durham has tended to ignore the episcopates of Bishops Tunstall and Pilkington who served the palatinate during the most crucial years of its development since the thirteenth century, from the reign of Henry VIII to Elizabeth I. This dynamic era in the history of palatine administration has been dismissed because of two prevailing assumptions. The first is that Durham's palatine privileges were already shadows of their former selves by the end of the fifteenth century. In chapter 1, I will argue that the palatinate was a viable ecclesiastical polity in the early sixteenth century, and that the privileges of Durham, which had developed substantially in the thirteenth century, remained stable for the balance of the late medieval period and into the reign of Henry VIII. Chapter 2 discusses the important events from 1530 to 1569 and their influence on the palatinate of Durham. Chapter 3 examines the temporal administration of the palatinate under Bishops Tunstall and Pilkington and their leading palatine officials. It also examines the crown's administration of Durham from 1560 to 1561 when the bishopric was *sede vacante*. The second historiographic assumption is that what few privileges the palatinate retained were finally extinguished by the *Act for the recontinuing of Liberties and Franchises* of 1536. In chapter 4, I demonstrate that the judicial jurisdiction of the palatinate was scarcely affected by the act. The changes that occurred in Durham under the Tudors were incidental consequences of the political and religious reformations of the period and the often turbulent personal relationship between

the bishop and the monarch rather than from any direct Tudor policy aimed at diminishing palatine authority within the kingdom. The mid-sixteenth century was a period of transformation for the palatinate of Durham, not one of termination.

Chapter 1: The Political Status of the Palatinate of Durham in the Later Middle Ages

An overview of the late medieval background to the reformation era in Durham from 1530 to 1569 offers a measure by which to judge the efficacy of the palatine administration in the mid-Tudor period. This chapter sketches the foundation of the monastery, cathedral church and palatinate, the cult of St. Cuthbert, and the ancient rights of the bishop and prior in the jurisdictions of the law, religion and politics prior to the Henrician reformations. I argue in this chapter that, traditional historiography to the contrary, Durham continued to be a viable ecclesiastical polity in 1530 on the eve of the reformation, its liberties strengthened rather than diminished in the later Middle Ages. The primary transition period for the liberties of the palatinate lay in the future, during the country's reformations, as will be addressed in chapter 2.

Until recently, the historiography on the early modern palatinate concluded that by the early sixteenth century, the bishop of Durham possessed little of the prerogative and authority enjoyed by his predecessors in the centuries immediately following the Conquest. Some of the most prominent twentieth-century scholars of Durham and Northern England have maintained this assertion. Various historians claim that the high point of the bishop's liberties occurred during the episcopate of Antony Bek in the reign of Edward I, and steadily declined throughout the later Middle Ages, culminating in the administrative reforms of Henry VIII.[1] These contentions have only begun to be rectified

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[1] G.T. Lapsley, *The County Palatine of Durham* (Cambridge, MA: Harvard University Press, 1901); C.M. Fraser, *A History of Antony Bek* (Oxford: Clarendon Press, 1957); D. Loades, "Monastery into chapter: Durham, 1539-1559," in *Life and Thought in the Northern Church c. 1100-c. 1700: essays in honour of Claire Cross,* ed. D. Wood (Woodbridge: Boydell, 1999), 315-35; Idem, "The Collegiate Churches of County Durham at the time of the Dissolution," in *The Province of York: Papers read at the fifth summer meeting of the Ecclesiastical History Society,* ed. G.J. Cuming (Leiden: E.J. Brill, 1967), 65-75; R.L. Storey, *Thomas Langley and the Bishopric of Durham 1406-1437* (London: S.P.C.K., 1961); A.J. Pollard, *North-Eastern England during the Wars of the Roses: Lay Society, War, and Politics 1450-1500* (Oxford: Oxford University Press, 1990); R.B. Dobson, *Durham Priory 1400-1450* (Cambridge: Cambridge

in the last ten years by Chester and northern historian Tim Thornton. Rather than understanding the fifteenth and sixteenth centuries as a period of decline for Durham, Thornton believes that the privileges of the palatinate were, to the contrary, strengthened and reaffirmed. He finds that the number of cases involving parties from Durham was low at the Westminster chancery court until the reign of Edward VI. The increase in the quantity of cases can be attributed to the personal failure of the palatinate's officers to offer effective judicial recourse, which opened the way for Durham litigants to appear at Westminster.[2] The small number of cases appearing at the Star Chamber was the result of the success of the Durham chancery's equity jurisdiction.[3] Other indications of the continued strength of the palatinate are its exclusion from parliamentary taxation until the early seventeenth century and the lack of parliamentary representation for Durham until the Restoration.[4]

The privileges of the palatinate were rooted in the origins of the church. The foundation of the monastery and cathedral church at Durham are attributed to the palatinate's patron saint, Cuthbert. As a young shepherd of Celtic origins, Cuthbert had a vision in 651 A.D. of the soul of St. Aidan, the founder of the monastery of Lindisfarne.[5] Following his spiritual experience, Cuthbert entered the abbey at Melrose in Scotland where his divine nature and abilities attracted the attention of his ecclesiastical superiors.

University Press, 1973); G.V. Scammell, *Hugh du Puiset* (Cambridge: Cambridge University Press, 1956); M.E. James, *Family, Lineage and Civil Society: A Study of Society, Politics and Mentality in the Durham Region 1500-1640* (Oxford: Clarendon Press, 1974).

[2] Thornton, "Fifteenth-Century Durham," 86-8.

[3] Ibid., 88-9.

[4] Ibid., 89-93.

[5] M. Dufferwiel, *Durham: A Thousand Years of History and Legend* (Edinburgh: Mainstream, 1996), 16; *The Legend of St. Cuthbert with antiquities of the Church of Durham*, ed. R. Hegge (Sunderland, Durham: G. Garbutt, 1816), 5-6; R. Surtees, G. Taylor and J. Raine, *The History and Antiquities of the county palatine of Durham*, v. 1 (London: J.B. Nichols and Son, 1816-40), 4; E. Craster, "The Patrimony of St. Cuthbert," *E.H.R.* 69 (1954), 180.

The ecclesiastical historian, Bede, recorded twenty-four miracle stories occurring during the life of Cuthbert. One such tale, reported in the anonymous *Vita Sancti Cuthberti,* described Cuthbert's descent to the shore to pray one evening, "There followed in his footsteps two little sea animals, humbly prostrating themselves on the earth; and, licking his feet, they rolled upon them, wiping them with their skins and warming them with their breath."[6] Cuthbert lived fourteen years as a monk at Lindisfarne before retreating as a hermit to Farne, an uninhabited island. After nine years, Cuthbert was elected prior of Lindisfarne in 665, confirmed bishop of Hexham in 685, and translated to the bishopric of Lindisfarne the same year.[7] Leaving his ecclesiastical office to retire as a hermit on Holy Island, Cuthbert died on 20 March 687.[8] His body was interred in St. Peter's church at Lindisfarne. The coffin was opened eleven years later in 698 to reveal his uncorrupted corpse, which was translated to a coffin placed above the floor of the church, an act that constituted his canonization.[9]

Danish attacks on the English coast began in 789.[10] When Danish invaders threatened the monastery at Lindisfarne in 893, the monks, carrying the coffin containing the body of St. Cuthbert, headed for safer ground.[11] After seven years wandering about Northumbria the monks settled at Chester-le-Street, where they remained until leaving for Ripon in 995.[12] They intended to proceed to Ireland, only to be blown back by a storm

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[6] *Legend of St. Cuthbert*, 11; B. Ward, "The Spirituality of St. Cuthbert," in *St. Cuthbert, his Cult and his Community to A.D. 1200*, eds. G. Bonner, D. Rollason and C. Stancliffe (Woodbridge: Boydell, 1989), 72.
[7] Dufferwiel, *Durham: A Thousand Years*, 17; Surtees, *History and Antiquities*, 5.
[8] Surtees, *History and Antiquities*, 6.
[9] *Legend of St. Cuthbert*, 18; "Introduction," in *St. Cuthbert, his Cult and his Community to A.D. 1200*, eds. G. Bonner, D. Rollason and C. Stancliffe (Woodbridge: Boydell, 1989), xxi.
[10] Surtees, *History and Antiquities*, 7.
[11] *Legend of St. Cuthbert*, 23-4.
[12] *Legend of St. Cuthbert*, 36; Surtees, *History and Antiquities*, 8, 10.

upon embarking at the Solway.[13] On their proposed return to Chester, the coffin of St. Cuthbert suddenly became immoveable in the Wear Valley. Following three days of supplication and fasting, St. Cuthbert appeared in a vision to a monk named Eadmer, directing the pilgrims to transport his body to a nearby site at Durham.[14] Cuthbert's tomb was opened again in 1104 when the present cathedral church was sufficiently complete to translate his corpse to a shrine within it. The building was entirely finished in 1133.

Most miracles involving St. Cuthbert occurred in the twelfth century. The hagiographer of Durham in that period, Reginald, recorded a total of 129 miracles associated with Cuthbert's shrine between the settlement of the community at Chester in 875 and the 1170s.[15] Cuthbert himself, however, left no writings that are known to survive and two of his earliest biographers, Bede and the anonymous author of the *Vita Sancti Cuthberti,* were not personally acquainted with the saint. The facts of St. Cuthbert's life can be determined with relative accuracy, however, like many renowned spiritual figures, it is difficult to ascertain the truth of many stories associated with the saint after his death. What remains important is not the authenticity of the miracle stories associated with Cuthbert and his shrine, but that there was a literary culture promoting the saint, confirming his importance in the spiritual life of the north.

There is scholarly consensus that the origins of the church of Durham are rooted in the custodians of the body of St. Cuthbert. The explanation for the unique privileges of the palatinate, however, remains a subject of discussion. One of the earliest historians of Durham, Symeon, who entered the monastery at Durham in 1090, believed that it was

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[13] "Historiae Ecclesiae Dunhelmensis, Continuatio Prima, Continuatio Altera," in *Symeonis Monachi Opera Omnia*, v. 1, ed. T. Arnold, R.S., v. 75 (New York: Kraus Reprint, 1965), 64.
[14] Surtees, *History and Antiquities*, 10.
[15] V. Tudor, "The Cult of St. Cuthbert in the Twelfth Century: The Evidence of Reginald of Durham," in *St. Cuthbert, His Cult and His Community*, eds. G. Bonner, D. Rollason and C. Stancliffe (Woodbridge: Boydell, 1989), 448.

ancient custom that allowed those who ministered to God before the body of St. Cuthbert to possess their own lands.[16] Relying on the authority of Bede and the now-lost Northumbrian annals, Symeon tells us in his *Historia Dunelmensis Ecclesie*, which recounts the history of the monastery and St. Cuthbert from its founding until 1096, that Oswald, king of Northumbria, and Bede were responsible for the Christian conversion of the northern Saxons by inviting missionaries from Scotland.[17] Oswald was so pleased with the Scottish missionary Aidan that he granted him any lands of his choosing with accompanying jurisdictional authority, Aidan ultimately settling on the site of Lindisfarne on the northeast coast of the island.[18]

More recent local historians have also investigated the formation of Durham's palatine status. The eighteenth-century Durham historian and antiquarian, Robert Surtees wrote that the privileges held by the palatinate emerged after the Norman Conquest. After William the Conqueror granted lands to Walcher, bishop of Durham, Surtees believed that the Conqueror also gave Walcher, either by grant or tacit permission, the authority to exercise palatine powers to the full extent that they were held by later bishops. Surtees argued that William was motivated to make such a grant for several reasons: firstly, the proximity of the Scots; secondly, the insecure state of the north; and thirdly, the distance of Durham from the center of government in the south.[19] M.H. Dodds believed that the immunities of the bishopric that survived the Conquest were strengthened by the Conqueror, who established there a castle and a mint.[20] A more recent historian of Durham, D.M. Loades, also believes that the palatinate owes its

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[16] F. Barlow, *Durham Jurisdictional Peculiars* (London: Oxford University Press, 1950), 5.
[17] Lapsley, *County Palatine*, 158.
[18] "Historiae Ecclesiae Dunhelmensis," 18-9.
[19] Surtees, *History and Antiquities*, 16.
[20] M.H. Dodds, "The Bishop's Boroughs," *A.A.*, 3rd Ser., 12 (1915), 87.

origins to a grant made after the Norman Conquest in a deliberate attempt to strengthen the defenses of the border against the Scots.[21] There is, however, no charter extant indicating that William I made a grant to Durham involving either territory or privileges.

In view of the lack of evidence of a direct royal grant to the cult of St. Cuthbert, other historians contend that Durham's palatine status and its accompanying privileges were the results of a more gradual process. The editor of Bishop Richard Kellawe's register (1311-1316), T.D. Hardy, supposed that the palatinate grew out of the bishopric of Lindisfarne.[22] The early twentieth-century historian of Durham, G.T. Lapsley, argued that Durham was the residue of a local liberty in the ancient kingdom of Northumbria.[23] Jean Scammel asserted that the origin of the palatinate could be placed in the ancient immunity of St. Cuthbert, but that the history of the palatine liberties begins in the aftermath of the Norman Conquest.[24] Given that Gerald Bonner tells us that Edmund, king of Wessex, confirmed the immunities belonging to the community of St. Cuthbert in 945, it seems likely that the immunities that existed after the conquest also existed before.[25] The palatine liberties at the end of the Middle Ages resulted from a patchwork of developed privileges, rather than out of a single grant.[26] Frank Barlow believes that the privileges of the see developed from the perpetuation of the Germanic conception of ownership in which it was possible for churches to be owned privately.[27] The adoption of petty Germanic kingdoms as ecclesiastical units on the continent was one of the main

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[21] D.M. Loades, "Introduction," in *The Last Principality: politics, religion and society in Durham, 1494-1660*, ed. D. Marcombe (Nottingham: University of Nottingham Press, 1987), 1.
[22] *Registrum Palatinum Dunelmensis. The register of Richard de Kellawe, lord palatine and bishop of Durham, 1311-1316*, v. 1, ed. T.D. Hardy, R.S., v. 62 (London: Longman, 1873), ix.
[23] Lapsley, *County Palatine*, 12.
[24] J. Scammel, "The Origins and Limitations of the Liberties of Durham," *E.H.R.* 81 (1966), 452.
[25] Bonner, "St. Cuthbert at Chester," 391.
[26] Bonner, "St. Cuthbert at Chester," 472; G.V. Scammell, *Hugh du Puiset, bishop of Durham* (Cambridge: Cambridge University Press, 1956), 189.
[27] Barlow, *Jurisdictional Peculiars*, xi.

influences on the growth of the Roman ecclesiastical institution. The Norman Conquest resulted in the reorganization of the constitution of the church in England; nevertheless, some private possessions, among them those of St. Cuthbert, survived as immunities.[28] Since there is no extant evidence indicating that the palatinate and its privileges were granted by a single act of a monarch as posited by Surtees and Loades, the argument that the liberties were a survival from the Anglo-Saxon period remains the most plausible explanation for Durham's existence as a palatinate. By chronologically situating the origins of the palatine privileges prior to the Norman Conquest, the lands and privileges of Durham never fell within the patrimony of the English monarch. Durham's claim to ancient liberties influenced the relationship between the monarch and the bishop and the respect for tradition aided Durham in maintaining its privileges in the early modern period.

The city of Durham itself owes its origins and prosperity to the establishment of the monastery and the construction of the cathedral church. There are indications that a small farming community existed near Durham prior to the settlement of the monks there in 995. While there is no archaeological evidence demonstrating a settlement at Durham until the late tenth century, references from the Anglo-Saxon chronicle imply that there may have been an ecclesiastical centre at Elvet, a borough of the city, by the eighth century.[29] Similarly, the location of Maiden Castle only a few miles to the southeast, suggests that an old manor or farm existed prior to the founding of the monastery in Durham.[30] Besides the alleged motivation of the monks for founding the city at Durham,

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[28] Ibid., 15.
[29] M. Bonney, *Lordship and the Urban Community: Durham and its overlords 1250-1540* (Cambridge: Cambridge University Press, 1990), 12.
[30] Ibid.

the site is easily defensible and may have been important in the military defenses of the kingdom of Northumbria.[31] The city was the centre of Anglo-Saxon resistance to the Norman invaders in the north; the first attempt to rule the region in 1068 resulted in the slaughter of the Norman noble Robert Comin and his soldiers.[32]

The burgesses of the city of Durham commenced their efforts towards incorporation in the twelfth century. In 1179, they purchased a charter from Bishop Hugh du Puiset that granted them the same rights and liberties possessed by the burgesses of Newcastle-Upon-Tyne.[33] Durham emerged from the late medieval period, however, much further behind constitutionally than other northern towns.[34] The economic development of the city was belated by the close connection of the region's economics with the monastic foundation. Businesses were primarily directed towards providing for the monastery and the ecclesiastical and secular officers of the palatinate.[35] The economy of the region was largely self-contained with the majority of needs being met by local industry.[36] Trade in northeast England was severely restricted by the Anglo-Scottish war, which hindered the development of towns by halting exchange with the settlements of southern Scotland. The relative success of Newcastle is attributable to its exploitation of coal, being the only northern town in which were situated craft guilds.[37] In 1565, when

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[31] Ibid., 15.
[32] Dodds, "Bishop's Boroughs," 85-6; W.E. Kappelle, *The Norman Conquest of the North: The Region and Its Transformation 1100-1135* (Chapel Hill: University of North Carolina Press, 1979), 112.
[33] Bonney, *Lordship and the Urban Community*, 27.
[34] R.B. Dobson, "Cathedral Chapters and Cathedral Cities: York, Durham and Carlisle in the Fifteenth Century," in *Church and Society in the Medieval North of England*, ed. R.B. Dobson (London: Hambledon Press, 1996), 17.
[35] Ibid.
[36] Scammell, *Puiset*, 218.
[37] C.M. Fraser, "The pattern of trade in the north-east of England, 1265-1350," *N.H.* 4 (1969), 65.

Bishop Pilkington granted the city a charter of incorporation, the town of Durham became more like other sixteenth-century towns.[38]

The custodians of the body of St. Cuthbert who served the cathedral church at Durham were secular canons until 1083 when the second Norman bishop, William of St. Calais, introduced Benedictine monks from nearby Monkwearmouth and Jarrow into the church.[39] The bishop was the titular head of the monastery and enjoyed the position of abbot but not any of the associated powers.[40] The monks enjoyed the freedom of election of their prior.[41] In the fourteenth and fifteenth centuries the monastic communities at Canterbury and Durham were the largest of eight monastic cathedral chapters in the country.[42] From its inception in the eleventh century until the dissolution, Durham housed a community of roughly seventy monks that varied little over the centuries, the fluctuations owing primarily to the devastation wrought by the Anglo-Scottish Wars.[43] Monks were recruited from the four northern counties, and by the fifteenth century most monks came from the priory's own grammar school.[44] At the time of its surrender in 1539, the monastery was home to a prior and sixty-six monks.[45]

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[38] Ibid.
[39] Barlow, *Jurisdictional Peculiars*, xvii-1; *Dunelmensis Scriptores Tres*, S.S., app., i.
[40] D.M. Loades, "Monastery into chapter: Durham, 1539-1559," in *Life and Thought in the Northern Church c. 1100-c. 1700: essays in honour of Claire Cross*, ed. D. Wood (Woodbridge: Boydell, 1999), 315.
[41] D. Knowles, *The Religious Orders in England*, v. 1 (Cambridge: Cambridge University Press, 1959), 255-6; *The Register of Thomas Langley, bishop of Durham, 1406-37*, v. 2, ed. R.L. Storey, S.S., v. 166 (Durham: Andrews, 1957), 116-23.
[42] R.B. Dobson, "The Black Monks of Durham and Canterbury Colleges: Comparisons and Contrasts," in *Benedictines in Oxford*, eds. H. Wansbrough and A. Marett-Crosby (London: Longman, 1997), 64; Loades, "Monastery into Chapter," 316.
[43] Sixty-six monks are recorded to have been present at the election of Prior Castell in 1494 and seventy-four at the election of Prior Whitehead in 1519, both of which Greenslade considers to be complete lists of the number of monks in Durham including its dependencies. S.L. Greenslade, "The Last Monks of Durham cathedral priory," *D.U.J.*, ns, 10:3 (1949), 112; *The Register of Thomas Langley* also records the presence of sixty-six monks at the election of Prior Wessington in 1419, v. 2, 117-8.
[44] R.B. Dobson, "Richard Bell, Prior of Durham (1464-78) and Bishop of Carlisle (1478-95)," *Trans.C.W.A.A.S.*, ns, v. 65 (1965), 183.
[45] Loades, "Monastery into Chapter," 316; Greenslade, "The Last Monks," 109.

Unlike those at the monasteries in much of the country during the later Middle Ages, the monks at Durham were not the target of anti-clerical feeling, nor did they suffer from a significant decline in popularity. Between the reigns of Richard II and Henry VIII, the English monasteries as a whole experienced a decline in local influence relative to that of laypersons, as the total wealth of the country increased.[46] In Durham, the monastery was the focus of economic and spiritual life. The Durham monks owed their success to the continued popularity and prestige of their patron saint.[47] The monastery served principally as a source of charity and employment and secondly as a font of spiritual guidance.[48] In 1305, for example, the convent gave 3,000 paupers one penny each at the two Feasts of St. Cuthbert.[49] The monastery also contained the highest concentration of university-trained members in the north, and administered a total of nine dependent cells including Durham College at Oxford University, which was hosting Durham monks attending university by 1283.[50]

Enough emphasis cannot be placed on the importance of St. Cuthbert to the monastery of Durham and the north as a whole. Royalty passing north of the Tees regularly visited the saint's shrine.[51] Athelstan, king of Wessex, visited the shrine in 934, and his brother and successor, Edmund, visited while on campaign in the north in 945. Edmund offered two golden bracelets and two Greek copes, which he placed directly on the holy body.[52] The Danish king Cnut made a pilgrimage to the shrine barefoot in the early eleventh century. On 28 July 1300, King Edward I left an offering at the saint's

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[46] Knowles, *Religious Orders*, v. 2, 283.
[47] Dobson, "Cathedral Chapters," 24; R.B. Dobson, *Durham Priory*, 31.
[48] Loades, "Monastery into Chapter," 316.
[49] *Northern Petitions illustrative of Life in Berwick, Cumberland and Durham in the Fourteenth Century*, ed. C.M. Fraser, S.S. v. 194 (Gateshead: Surtees Society, 1981), 207-9.
[50] Dobson, "Cathedral Chapters," 51; Dobson, "Black Monks," 63, 67.
[51] Dobson, *Durham Priory*, 29.
[52] Bonner, "St. Cuthbert at Chester," 389-91.

shrine of silver and precious stones worth over £11, which pales in comparison to the offering of £60 given by Edmund's army in 945.[53]

The popularity of the northern saint rose greatly immediately following the upheaval caused by the Norman Conquest.[54] It was common belief that Cuthbert was owed gratitude, and the saint was feared as well as loved. The defense of Durham, both against the Scots and against the encroachments of the kings of England, was undertaken in the name of the saint who, it was believed, would not tolerate a diminution of his patrimony on earth, and that those who allowed it would face his wrath on Judgment Day.[55] In 1522, Thomas Lord Dacre hoped that Norham Castle, "with the help of God and the prayer of St. Cuthbert" would remain impregnable to the Scottish raiders.[56] The banner of St. Cuthbert, borne by the Durham contingent in the Pilgrimage of Grace, was the most popular battle ensign in England at the end of the Middle Ages.[57] Sir William Eure, sheriff of the palatinate, asked that the men of the bishopric who were mustered to march against the Scots in 1522 carry the banner. The chancellor of the palatinate informed Bishop Thomas Ruthall that the men of the palatinate were ready to serve but that, after calling a conference in which he ascertained the opinions of the leading men of the palatinate, no one consented to permit the banner to pass out of the diocese.[58] The reverence for the saint is equally evident from the number of northern ecclesiastical institutions that bore his name. By the fifteenth century, sixty-four churches and chapels

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[53] *Historiae Dunelmensis Scriptores Tres, Gaufridus de Coldingham, Robertus de Graystanes, et Willielmus de Chambre,* ed. J. Raine, S.S., v. 9 (London: J.B. Nichols and Son, 1839), app., cccxxxi.
[54] Dobson, *Durham Priory*, 26.
[55] Ibid., 11-13.
[56] *L.P.*, 1521-1523, 872.
[57] Dobson, *Durham Priory*, 27.
[58] *L.P.*, 1521-1523, 1074.

were dedicated to him, more than any other northern saint.[59] In addition, there were numerous holy wells and place names derived from the name Cuthbert. Two festivals were dedicated to him: the day of his death, 20 March, and the day of the translation of his body to Durham, 4 September.[60] Cuthbert retained a place among the most popular and powerful saints in England right up until the Henrician reformation.

While spiritualities were plentiful in the thirteenth and fourteenth centuries, the largest source of income for the monastery was derived from its many estates in Durham, Northumberland and southern Scotland. The monastery was the second largest landholder in the palatinate behind the bishop. Its estates were originally farmed directly by the priory, both for stock and grain production, but the land was progressively let out under short-term leases. Income was derived from the sale of grain, wool, sheep and cattle, although the percentage collected from rent gradually increased.[61] The direct exploitation of the farms originally practiced by the priory supplied the monastery with necessities and the surplus was sold to finance manorial operations.[62] In the fifteenth century, the monastery held a total of twenty-two parcels of arable land totaling 214 and one half acres.[63] The monastery's income from its lands was severely affected by the ongoing Anglo-Scottish war and the revenues from its most northern estates suffered a drastic decline. The revenues from its Scottish dependencies that had once totaled £150 before the outbreak of war were worth nothing by 1380; income from the Northumberland parishes of Norham, Holy Island and Ellingham fell from £350 to £70

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[59] Ibid., 18.
[60] Dodds, "Bishop's Boroughs," 106.
[61] R.A. Lomas, "The priory of Durham and its demesnes in the 14th and 15th centuries," *Ec. H.R.* 2nd ser. 31 (1978), 351.
[62] Ibid., 352.
[63] R.A. Lomas, "A northern farm at the end of the middle ages: Elvethall Manor, Durham, 1443/4-1513/4," *N.H.* 18 (1982), 29.

during the same period.[64] By the fifteenth century the revenue from spiritualities had steadily deteriorated from £1467 in 1293 to £353 in 1436.[65] The steady drop of revenue from its dependent cells, save for Durham College at Oxford and Finchale, adversely affected the revenue of the monastery. In the latter half of the fifteenth century the monastic cell of Coldingham situated on Scottish soil was permanently relinquished.[66]

The prior of the monastery constituted an important public figure and functioned as the spiritual leader in Durham. He carried out commissions from the bishop as a collector of the tenth, for example, or received appointments directly from the crown, such as mediating disputes among the northern nobility.[67] A review of the prior's correspondence from the fifteenth century illustrates his status among the leading magnates of the palatinate, and also the amount of patronage at his disposal. The prior most frequently came in contact with the region's noble families through the performance of spiritual services such as baptisms, marriages and funerals.[68] He fostered relationships with the nobles by giving gifts to their servants whenever business led them to the priory.[69] He was also seen as a potential patron, receiving letters both from persons of humble social status and noble personages requesting his assistance and influence. Some asked for his attendance at public events, others for personal favours, while most asked

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[64] Lomas, "Priory of Durham and its demesnes," 346.
[65] The decline in money derived from spiritualities in the later middle ages should not be seen as a decline in the reverence for St. Cuthbert or respect for monastic life, rather, the decrease of revenue is part of the more general economic devastation of the region caused by the Anglo-Scottish war. Dobson, *Durham Priory*, 269.
[66] Ibid., 204-5
[67] Ibid., 178.
[68] E.M. Halcrow, "The Social Position and Influence of the Priors of Durham, as Illustrated by their Correspondence," *A.A.*, 4th ser., 33 (1955), 73.
[69] Ibid., 72-3.

for an ecclesiastical appointment for a relative.[70] A major component of the prior's patronage was his control of the appointments to two almshouses and two hospitals.[71]

The prior exercised judicial authority over the tenants on his lands. Between the bishop and the prior there were a total of six varieties of local courts, three prerogative courts and the court of chancery, all of which exercised common law in accordance with the practice of the kingdom.[72] The division of criminal jurisdiction between the bishop and the prior was determined in an agreement concluded in 1229, known as *Le Convenit*, which granted the monastery the right to hold halmote courts as a landholder for its own tenants, and one half share of the revenues resulting from the condemnation of priory tenants, regardless of the location of the offence.[73] Halmote courts were held annually in the major diocesan centres, such as Chester-le-Street, Easington, Darlington and Sadberge, for the town and its surrounding countryside well into the reign of Elizabeth.[74] A court was also held for the monastery's free tenants until the end of the fourteenth century.[75] The prior exercised assizes of bread and ale in the borough of Elvet.[76] Despite the thirteenth-century agreement, which granted the prior the right to conduct trials in cases of larceny and robbery, by the fourteenth century, all felonies were being reported

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[70] Ibid., 75, 77.
[71] Dobson, "Richard Bell," 184.
[72] C.J. Neville, "The Courts of the Prior and the bishop of Durham in the Later Middle Ages," *History* 85 (2000), 221.
[73] Neville, "Courts of the Prior and bishop," 223; K. Emsley and C.M. Fraser, *The Courts of the County Palatine of Durham from the Earliest Times to 1971* (Durham: Durham County Local Historical Society, 1984), 7; Lapsley, *County Palatine*, 169; *Dunelmensis Scriptores Tres*, app., lxx-lxxii; *Feodarium Prioratus Dunelmensis. A survey of the estates of the prior and convent of Durham compiled in the fifteenth century, illustrated by the original grants and other evidences*, ed. W. Greenwell, S.S., v. 58 (Durham: Andrew's & Co., 1872), 212-19.
[74] *List and Index of Court Rolls preserved in the P.R.O.* (New York: Kraus Reprint, 1963), 25.
[75] Emsley and Fraser, *Courts of the County Palatine*, 8.
[76] C.M. Fraser, *A History of Antony Bek, bishop of Durham 1283-1311* (Oxford: Clarendon Press, 1957), 80.

in the bishop's courts. The prior's bailiffs, however, were permitted to be present if the accused was the prior's tenant.[77]

As ecclesiastical and temporal head of the palatinate, the bishop held numerous religious and secular rights and powers. He possessed the right to collect market tolls and was entitled to have a customs officer both in the port of Hartlepool and at Tweedmouth to regulate wool entering the palatinate from the north.[78] The bishop claimed the right to forfeiture by 1275 and prerogative of wardship, confirmed by Edward I in 1303, which the bishop continued to exercise in the sixteenth century.[79] The bishop's ecclesiastical and temporal jurisdictions did not correlate since the diocese of Durham itself extended over the palatinate, Northumberland and parts of Cumberland encompassing the entire East and Middle marches.[80] The spiritual revenue of the bishop was calculated at £2,821 in 1535, which was exceeded only by the revenues of the bishop of Winchester and the Archbishop of Canterbury.[81] The bishop possessed one of three ecclesiastical mints in the later Middle Ages, the others being located at Canterbury and York.[82] The Durham mint produced royal coins and coins in the name of the bishops, the first of which were struck during the episcopate of Bishop Geoffrey Rufus in the 1130s.[83]

Bishop Hugh du Puiset undertook the first major expansion of his office's prerogatives after the Norman Conquest in the second half of the twelfth century. Puiset granted charters to his boroughs without recourse to the king, and purchased the

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[77] Emsley and Fraser, *Courts of the County Palatine*, 9; Neville, "Courts of the Prior," 228.
[78] C.M. Fraser, "Prerogative and the Bishops of Durham, 1267-1376," *E.H.R.* 74:292 (1959), 469.
[79] Fraser, "Prerogative and the Bishops," 474; *L.P.*, 1513, 1042.
[80] Loades, "Introduction," 2.
[81] Ibid., ff. 4.
[82] C.E. Challis, "The ecclesiastical mints of the early Tudor period: their organization and possible date of closure," *N.H.* 10 (1975), 88, 91.
[83] Dodds, "Bishop's Boroughs," 89.

wapentake of Sadberge and the port of Hartlepool from Richard I in 1189.[84] The bishop held a separate assize court for the franchise of Sadberge, for which he bore the title of earl.[85] Puiset also established the office of exchequer at Durham. Although an organization for the exchange of money likely existed earlier, the term exchequer itself was not used until 1219.[86] The Durham exchequer sat quarterly in accordance with the practice of the royal exchequer, but it rarely constituted a separate body from the chancery, since the offices of receiver-general and chancellor were frequently invested in the same person and their courts jointly held.[87]

The *Quo Warranto* proceedings of Edward I confirmed the bishop's right to possess a chancery responsible for the issuing of writs and his right to appoint legal officers including justices.[88] The first evidence of a chancellor dates from 1242 and by 1310 there were indications of both a spiritual and temporal chancellor sitting.[89] Originally functioning as a writing office, the chancery developed into a judicial tribunal in the fourteenth century.[90] By the late fifteenth century, Durham's chancery had developed into a court of equity, which Cardinal Wolsey reorganized upon acquiring the see in 1523.[91]

There is evidence that the bishop possessed criminal jurisdiction in the palatinate by the end of the eleventh century. The bishops held a criminal court, which existed from

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[84] Ibid., 95.
[85] "Two Thirteenth-Century Assize Rolls from Durham," *Miscellanea* v. 2, eds. K.E. Bayley, J. Raine and A. Hamilton Thompson, S.S., v. 127 (Durham: Andrews & Co., 1916), *passim*.
[86] Lapsley, *County Palatine*, 264.
[87] Ibid., 270-1.
[88] Emsley and Fraser, *Courts of the County Palatine*, 25; Lapsley, *County Palatine*, 186.
[89] Emsley and Fraser, *Courts of the County Palatine*, 72-3; Fraser, "Prerogative of the Bishops," 73.
[90] Lapsley, *County Palatine*, 187.
[91] Ibid., 189.

before the conquest, and appointed their own sheriffs.[92] The bishop's judicial liberties were confirmed in a charter from Henry II to Bishop Puiset granting that "the men of St. Cuthbert and the monks of Durham shall be free from all shires, hundreds, trithings, and wapentakes, as well as from aids of sheriffs and reeves, and are to have their court as fully and freely as they had in the time of king Henry the king's grandfather."[93] Bishop Puiset introduced the legal concept of the bishop's peace by holding courts by his own writs rather than those of the king.[94]

Like the rest of the country, the thirteenth century was a period of great legal innovation in Durham. In the early part of the century, the bishops were awarded the right to hold an assize within the palatinate in the manner of the kingdom.[95] The county was sub-divided into four wards: Stockton, Easington, Darlington and Chester-le-Street, each of which contained one of the bishop's main estates.[96] The bishop claimed the right to use forest law, and forest courts were held at Stanhope and Bishop Auckland.[97] The greatest legal challenge facing the palatine judiciary was cases involving individuals not resident within the franchise.[98] As early as 1243, the bishops entered into an extradition agreement with the crown, but the stress of Scottish inroads into the northern counties required that the agreement be reconstituted in 1341.[99] By 1304, the justices of Durham were regularly holding assizes and shortly thereafter, sessions of gaol delivery and oyer

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[92] Lapsley, *County Palatine*, 159-60; S.G. Ellis, *Tudor Frontiers and Noble Power: The Making of the British State* (Oxford: Clarendon, 1995), 53.
[93] *Dunelmensis Scriptores Tres*, app., li.
[94] Lapsley, *County Palatine*, 164.
[95] Ibid., 167.
[96] Emsley and Fraser, *Courts of the County Palatine*, 14.
[97] Fraser, "Prerogative of the bishops," 470.
[98] Ibid., 472.
[99] Ibid.

and terminer.[100] The king's common law courts had no machinery for initiating cases involving inhabitants of the palatinate. Occasionally, however, Durham residents did appear before the royal courts, either on appeals on a writ of error by one of the palatine courts to the King's Bench, or, for actions taken in the Westminster courts of Chancery, Star Chamber or Requests.[101] The courts of the kingdom remained the final judicial body for Durham legal appeals and acted in a supervisory capacity over the palatinate's courts.

The development of the palatine legal jurisdiction occasionally met with resistance from the local inhabitants. In 1334, the chaplain of Crossgate petitioned the king claiming that the bishop of Durham was not permitted to issue from his chancery a writ of free tenement, the bishop being powerless to issue any other writs except for entry, trespass, right patent, dower, and *mort d'ael*, and hold assizes of *mort d'ancestor* and *novel disseisin,* except by the power of the king during a vacancy or a time of eyre.[102] A fourteenth-century petition to the king from Bishop John Fordham claimed that the merchants of Newcastle-Upon-Tyne were not respecting a statute of Edward III that gave the bishop the right to an annual profit from the sale of coal mined within the bishopric.[103] As a result, Richard II granted the bishop the right to load and unload ships on the south bank of the Tyne infringing upon the liberties held by the burgesses of Newcastle.[104]

There were other minor courts within the palatinate under the bishop's jurisdiction. As the ordinary, as well as the secular lord of the palatinate, the bishop

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[100] Lapsley, *County Palatine*, 174; *Registrum Palatinum Dunelmense*, v. 1, 299, v. 2, 716, 1171, 1258.
[101] C. Kitching, "The Durham Palatinate and the Courts of Westminster under the Tudors," in *The Last Principality: politics, religion and society in the bishopric of Durham, 1494-1660*, ed. D. Marcombe (Nottingham: University of Nottingham Press, 1987), 49.
[102] *Northern Petitions*, 234-5. A royal eyre was held in 1227 when the palatinate during *sede vacante*, *Miscellania*, eds. K.E. Bayley, A. Hamilton Thompson, introduction, xi.
[103] *Northern Petitions*, 169-70.
[104] Ibid., 173.

possessed the usual ecclesiastical courts that functioned as a secondary judicial machinery to the temporal courts.[105] The bishop possessed a court of admiralty stemming from his privileges to wreck and fish, the regulation of ports and river commerce, and the cognizance of pleas arising from naval or commercial relations established shortly after the Conquest.[106] The bishop also conducted a court of marshalsea to handle all issues arising from military affairs in the palatinate.[107]

The palatinate itself was a patchwork of liberties, the largest of which belonged to the prior. There were no fewer than twelve persons holding liberties from the bishop.[108] The secular liberties of Hexham and Tynedale in Northumberland, and Redesdale in Durham, all of which were notorious safe havens for criminals, frequently posed problems to the safety of the north.[109] The bishop possessed episcopal jurisdiction over the two liberties and was able to impose ecclesiastical sanctions on criminals, such as the monition issued by Bishop Richard Fox against thieves from Tynedale and Redesdale in 1498 whom he ordered to appear before him within six days for absolution.[110] Tynedale was later incorporated into the county of Northumberland by statute in 1495.[111] The bishop also possessed temporal jurisdiction over the wapentake of Sadberge, conducting assizes there in 1235 and 1236.[112] Robert Bruce, who led the Scottish claim for independence, held lands within the palatinate, possessing the right to hold a market and fairs at the palatinate's most significant port, Hartlepool, until his lands were forfeited to

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[105] Lapsley, *County Palatine*, 191-3.
[106] Ibid., 193.
[107] Ibid., 194
[108] Ibid., 173.
[109] Neville, "Courts of the Prior," 218.
[110] *Register of Richard Fox, Lord Bishop of Durham, 1494-1501*, ed. M.P. Howden, S.S., v. 147 (Durham: Andrews & Co., 1932), 80-4.
[111] Ellis, *Tudor Frontiers and Noble Power*, 35.
[112] "Two Thirteenth-Century Durham Assize Rolls," *passim*.

the English crown as a rebel.[113] The Balliols held the right to a market and fairs at Barnard Castle, which later devolved to the Duchy of York, while the castle went to the crown.[114] The great secular magnates of the palatinate, the Nevilles, whose family seat was at Brancepeth, also held a castle and liberty at Raby.[115]

Prior to the sixteenth century, the palatinate of Durham and its privileges had been challenged, both by the crown and the ecclesiastical hierarchy. Henry II attempted to intervene in palatine affairs through a writ that claimed his right to interfere where there had been a failure of justice in a proprietary action in the palatine courts.[116] The royal charter that allowed the Assize of Clarendon to be held in Durham with the permission of Bishop Puiset specifically stated that it was not intended to establish a precedent of crown interference in the bishop's liberties.[117] The biographer of Hugh du Puiset, G.V. Scammell, believed that the greatest challenges made to the palatinate's liberties during the bishop's episcopate resulted from the reaction of Henry II to Puiset's political indiscretions and not to a consistent policy of intrusion. In short, there was no need for Puiset to defend his privileges since no attack on them was made.[118] The resumption of Durham's liberties by Edward I from Antony Bek on 1 July 1302 resulted from the turbulent relationship between the bishop and the monastery, but did not represent the standard royal practice towards the palatinate.[119] The liberties were restored on 8 July 1303, but were seized again before the end of Edward's reign and restored to Bek by

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[113] Fraser, *History of Antony Bek*, 80-1.
[114] Loades, "Introduction," *Last Principality*, 2.
[115] Ibid.
[116] Scammell, *Puiset*, 191; *Dunelmensis Scriptores Tres*, app., l.
[117] Lapsley, *County Palatine*, 163; *Dunelmensis Scriptores Tres*, app., l.
[118] Scammell, *Puiset*, 193, 240.
[119] Bishop Bek was arraigned in the king's presence before the king's chancellor and justices on 22 June 1301 for ignoring the royal protection granted to the prior and monastery by imprisoning one of the prior's tenants. *Records of Antony Bek, Bishop and Patriarch, 1283-1311*, ed. C.M. Fraser, S.S., v. 162 (Durham: Andrews, 1947), 85.

Edward II by letters patent on 27 May 1308.[120] The personal relationship between the bishop and his sovereign was important in the development of Durham's privileges in the sixteenth century.

Another area of contention between the bishop and the crown was the palatinate's right of exemption from royal taxation. The bishopric had been exempt from paying tax levied by the crown due to its status as church land until the reign of William II. That grants of taxes were made by the inhabitants of the palatinate to the bishop is evident in the fourteenth century, but most likely, he had already been collecting taxes before this time. In 1314, the bishop was granted a tax by his council and in 1344 and 1348 for his expenses in the see against the Scots.[121] The bishops continued to resist the efforts of the English monarchs to levy taxes within the palatinate. Durham was excluded from the parliamentary taxes known as the tenth and the fifteenth in the fourteenth century.[122] Durham did occasionally contribute to the royal coffers, as in 1371, for example, when the taxes levied and collected in Durham were added to the crown's overall collection of the parish subsidy, however, Durham's contribution was explicitly intended not to form a precedent as expressed in a charter issued by Edward III.[123] The council of Durham agreed to make a contribution to the income tax collected in 1436 but only on the condition that they received letters of indemnity excluding them from future levies.[124] In 1450 and 1474, the crown attempted to impose parish subsidies on the palatinate, but it failed to collect either.[125] After Henry VII came to the throne, the crown made no more attempts to force Durham to levy taxes. The region's exemption, however, can be

[120] Fraser, *History of Antony Bek*, 212; *Records of Antony Bek*, 92, 128.
[121] *Registrum Palatinum Dunelmense*, v. 2, 686, v. 4, 225-8; Lapsley, *County Palatine*, 119-20, 273.
[122] *Northern Petitions*, 161, 271-2.
[123] *Dunelmensis Scriptores Tres*, cxlii-cxliii; Laplsey, *County Palatine*, 117, 298.
[124] Thornton, "Fifteenth-Century Durham," 91.
[125] Ibid, 92.

attributed, not only to the devastation wrought by the Scottish raiding, but also to the willingness of the monarch to accept Durham's exemption from central taxation.

The bishop of Durham was subject to the episcopal authority of the provincial prelate, the archbishop of York, a relationship frequently fraught with tension. The prior and monastery at Durham attempted unsuccessfully to exclude the authority of the Archbishop of York from the palatinate when the bishopric was *sede vacante* in 1283.[126] Archbishop William Wickwane died before the parties could reach an agreement. A settlement was achieved on 8 November 1286, through the mediation of Bishop Bek, allowing the archbishop of York to exercise diocesan jurisdiction in the bishopric when the seat was vacant.[127] Archbishop William Melton cited the bishop of Durham, Lewis de Beaumont, to appear before him or his commissaries at York Minster by the feast of St. Clement 1329, to demonstrate why he had refused Melton's mandate to install Sir Henry de Latrington to the vicarage of Aycliffe.[128] After Beaumont's death, the archbishop proposed to visit the monastery at Durham, to which the prior and the monks objected. Melton assured them that he "intends no attack on their privileges and customs" by visiting them.[129] In the later fourteenth century, Archbishop Alexander Neville attempted to visit the diocese by a papal bull awarding him right of visitation by *iure metropolitico*, instead of the traditional *iure diocesano* when the see was vacant by the death of Thomas Hatfield in 1381. The monarch's admonition of the archbishop's

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[126] *Dunelmensis Scriptores Tres*, app., xciv.
[127] *Records of Antony Bek*, 5-6.
[128] *Register of William Melton, Archbishop of York, 1317-1340*, v. 1, ed. R. Hill, C.Y.S., v. 143 (Torquay: Devonshire Press, 1975), 93.
[129] Ibid., 97.

actions and the monastery's protest prevented the prelate from usurping the privileges of St. Cuthbert.[130]

The responsibility for defending the palatinate's liberties rested most heavily on the bishop. The appointment of Robert Neville to the bishopric in 1437 has traditionally been seen as the subordination of the powers of the bishop to those of the great northern family. The record of Neville's episcopate proves, however, that he was willing to work against the interests of his family in order to preserve the bishop's prerogatives.[131] Other bishops of the fourteenth and fifteenth centuries were equally forthright in protecting the privileges of their office. Durham chronicler William de Chambre believed that Richard Fox, bishop of Durham from 1494 to 1501, was translated to Winchester because of his staunch defense of the palatinate's liberties against the crown.[132] Fox also asserted the right of the bishop to forfeitures within the palatinate against the encroachments of the earl of Cumberland.[133]

Thomas Langley was one of the greatest statesmen of the late fourteenth and early fifteenth centuries, acting successively as the clerk of the Duchy of Lancaster under the leadership of John Gaunt, and as Keeper of the Privy Seal for King Henry IV; he was serving as the Chancellor of England at the time of his promotion to the see of Durham in 1406 at the age of forty-five.[134] Even during Langley's episcopate, however, the monarch was unable to act arbitrarily within the palatinate. The king's title to present

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[130] R.B. Dobson, "The Authority of the Bishop in Late Medieval England: The Case of Archbishop Alexander Neville of York, 1374-88," in *Church and Society in the Medieval North of England*, ed. R.B. Dobson (London: Hambledon Press, 1996), 189.
[131] T. Thornton, "Fifteenth-Century Durham and the problem of provincial liberties in England and their wider territory of the English crown," *Trans. RHS*, 6th Ser., 11 (2001), 97.
[132] *Dunelmensis Scriptores Tres*, 150.
[133] Ibid., app., ccccil.
[134] *The Register of Thomas Langley, bishop of Durham, 1406-37*, v. 1, ed. R.L. Storey, S.S., v. 164 (Durham: Andrews, 1956), preface, xi.

Gerard Hesill to a prebend in the collegiate church of Auckland by letters patent was investigated by a bishop's commission enacted on 27 Nov 1427. It is unclear whether the palatinate's officers were displeased with the king's act of presenting, or with the person presented, but the case remained incomplete by the end of the year, two more commissions being appointed on 15 Dec 1427 and in March 1428.[135] This was not the first instance in which the palatinate's officers acted to frustrate the wishes of the king. On 24 March 1419 Henry V ordered the bishop to institute Robert Gilbert as archdeacon of Durham. Another ordinance a year later appears in Langley's register instructing the bishop to carry out the king's wish or to explain why it had not been obeyed. In April 1420 a third order was issued from the king demanding that Gilbert be admitted as archdeacon or, if not, summoning the bishop to appear at Westminster to answer to a charge of contempt.[136] A commission was created a month later to examine the king's title to present to the archdeaconry of Durham and to induct Gilbert if his title were proved.[137] The officers of the palatinate finally submitted later the same year, granting Gilbert the archdeaconry, which he held until 1425.[138] Thus, although many bishops were men experienced in royal administration and were appointed by the crown, they acted with a degree of independence and in a capacity that is better described as associates, rather than agents, of the crown.

The staunch defense of Durham's liberties forced the leading northern magnates to respect the liberties of the palatinate well into the fifteenth century. In 1415,

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[135] *The Register of Thomas Langley, bishop of Durham, 1406-37*, v. 3, ed. R.L. Storey, S.S., v. 169 (Durham: Andrews), 58, 60, 77.
[136] *The Register of Thomas Langley, bishop of Durham, 1406-37*, v. 2, ed. R.L. Storey, S.S., v. 166 (Durham: Andrews), 184.
[137] Ibid., 185.
[138] *Fasti Dunelmenses, a record of the beneficed clergy of the diocese of Durham down to the dissolution of the monastic and collegiate churches,* ed. D.S. Boutflower, S.S., v. 139 (Durham: Andrews & Co., 1926), 50

Archbishop Bowet of York requested the aid of Langley, as lord of a secular liberty, and his officers in the arrest of William Heworth of Barnard Castle and Robert Marshall within the palatinate who were excommunicated by the vicar of Gainford, Yorkshire over a month previous and were in contempt.[139] In January 1417, Bishop Langley requested the aid of the temporal Lord of Tynedale in arresting in his liberty Joan Bunting who was excommunicated for adultery more than forty days earlier.[140]

The first several centuries after the Norman Conquest were a period of positive development of Durham's palatine privileges. At the end of the Middle Ages, the bishop possessed the right to collect market tolls, forfeiture and fines; he possessed a chancery to issue writs in his name and an exchequer for the tabulation of revenue; and the ability to deliver justice in his own assize sessions and quarter sessions. His proximity to the northern border made his primary duty the defense of the realm against the Scots; his other main defensive role was acted against the potential encroachments of the kings of England, northern secular magnates and ecclesiastical officials, particularly the Archbishop of York. The prior also possessed privileges, although not to the same extent as the bishop, including the right to administer justice to his tenants; the collection of fees and fines; the right to issue licenses for the sale of bread and ale; and the right to appoint to numerous and varied ecclesiastical offices within the palatinate. Traditional historiography about Durham has incorrectly assumed that the palatine privileges were bestowed by the monarch, and thus could easily be removed if they were seen to conflict with his authority, a supposition that has been challenged effectively by historians over the past decade. After the early fourteenth century the privileges belonging to the bishop

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[139] *Register of Thomas Langley*, v. 2, 59-60.
[140] Ibid., 134.

and his officers were fairly secure. The greatest transformation of these privileges came, not in the fourteenth and fifteenth centuries, but in the midst of, and as a consequence of, nationwide religious and political reformations.

Chapter 2: Reformation in Durham and the North, 1530-1569

This chapter discusses the events of the administrative and religious reformations of the mid-sixteenth century that particularly affected Durham and the north. Historians frequently treat the religious and administrative reformations as a single development; they were, in fact, two separate processes originating in the reign of Henry VIII. Administrative changes in the north commenced with a change in the crown's management of the region's nobles in the early 1530s, and consisted of the *Act for the recontinuing of Liberties and Franchises* of 1536, and the restoration of the Council of the North in response to the uprisings of the Pilgrimage of Grace. In the reign of Edward VI, the duke of Northumberland produced the greatest threat to the continuance of the palatinate as a political entity and the bishopric of Durham by imprisoning the bishop and dissolving the diocese. The Elizabethan Act of Exchange (1559), which permitted the crown to appropriate revenues from all vacant sees within the kingdom, constituted the crown's final challenge to the jurisdiction of the bishops and the palatinate in the sixteenth century.

The most serious and immediate consequence of the religious upheaval of the mid-sixteenth century, which began with the royal divorce and the country's break from papal authority, was the dissolution of the monasteries and collegiate churches in the reigns of Henry VIII and Edward VI. The Tudor religious reformations concluded in the Elizabethan religious settlement, whose immediate impact was to deprive many longstanding ecclesiastical officers and establish the foundation for the development of the Anglican Church. England's northern borders were particularly devastated by the religious reformation, being the only region in which religious institutions also had

important secular functions. The religious upheaval resulted in the diminution of the political and financial resources available to the bishop whose ecclesiastical and secular power were linked. Although the crown made no direct attempt to abolish the palatinate of Durham, the developments of the mid-Tudor period had incidental consequences on the region's liberties.

The early 1530s witnessed a more interventionist crown policy in the north. Suspicion about the loyalty of the northern magnates had been growing under Henry VII. In order to counteract the perpetual violence of the north under the wardenship of Henry Percy, sixth earl of Northumberland, Henry VIII increased crown presence there in the late 1520s by appointing Sir Thomas Wharton administrator of the Percy lands in Cumberland that had fallen to the crown.[1] Between 1534 and 1537, the king and Cromwell sought to centralize crown control and increase royal presence in the outlying provinces.[2] The supposed crisis that emerged in the borders in 1534 was the result of growing court factions and the king's inability to handle effectively the traditional ruling magnates. Henry's distrust of his northern magnates led to the assumption that they were plotting against him, resulting in the accusation of Lord Dacre the same year for treason. Dacre was acquitted by the House of Lords, but deprived of the wardenry and fined £10,000.[3]

In his efforts to increase the influence of royal governance in the localities, Cromwell introduced the *Act for the recontinuing of certain Liberties and Franchises*

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[1] M.E. James, "Change and Continuity in the Tudor North: Thomas Lord Wharton," in *Society, Politics and Culture: Studies in Early Modern England,* ed. M.E. James (Cambridge: Cambridge University Press, 1986), 99-102.
[2] S.G. Ellis, *Tudor Frontiers and Noble Power: The Making of the British State* (Oxford: Clarendon Press, 1995), 173.
[3] *Reports of Cases from the Time of King Henry VIII*, v. 2, ed. J.H. Baker, Sel. Soc., v. 121 (London: Sel. Soc., 2004), 415-6.

heretofore taken from the Crown to take effect on 1 July 1536, which assailed the kingdom's remaining liberties and franchises. The preamble of the act lamented the delay in administering justice caused by the liberties and franchises of the kingdom,

> Where diverse of the most ancient prerogatives and authorities of Justice appertaining to the imperial Crown of this Realm to the great diminution and detriment of the Royal estate of the same and to the hindrance and greater delay of Justice; for reformation whereof be it enacted by authority of this present parliament that no person or persons of what estate or degree so ever they be of...shall have any power or authority to pardon or remit any treasons, murders, manslaughters or any kinds of felonies what so ever they be...but that the King's Highness, his heirs, and successors, Kings of this Realm, shall have the whole and sole power and authority thereof united and knit to the Imperial Crowns of this Realm[4]

The act reserved for the king sole authority to pardon for treason and felony; the right to make justices of assize, of the peace, or of gaol delivery by letters patent; and exclusive authority to issue original writs in his name. It made special provision for the king to create justices in the county palatine of Lancaster by commission under the king's great seal. For Durham specifically, the act legislated that, "provided always and be it enacted that Cuthbert, now Bishop of Durham, and his successors, Bishops of Durham, and their temporal Chancellor of the County Palatine of Durham for the time being and every of them, shall from henceforth be Justices of Peace within the said County Palatine of Durham" with the same authority and power as the justices of the peace in all other English counties.[5] With the passing of this act, the crown theoretically resumed the judicial jurisdiction of the palatinate.

Later that year, an uprising occurred in the north in opposition to the religious and economic policies of the crown that was to have significant consequences for the crown

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[4] 27 Henry VIII c. 24, hereafter called *Act of Liberties and Franchises*.
[5] Ibid.

governance of the region. Of all the counties that partook in the Pilgrimage of Grace, the least scholarly attention has been paid to the rising in Durham.[6] It is clear, however, that the Durham pilgrims formed part of the rebellion's core. Musters were held at Richmond, where Sir Robert Bowes, a leading gentleman of the palatinate, was elected leader. Musters were then held at three places within the Palatinate: Oxen-le-fields, Bishop Auckland, which included several leading gentry of the region, and Spennymoor, where William Conyers joined the revolt.[7] Marmaduke Neville told commissioners that the contingent from Richmondshire was led by Sir Robert Constable, Sir Ralph Ellerkar, Sir Oswald Wyllestrope, Sir John Bulmer, Sir Richard Tempest, "and others." The leaders for the bishopric were Lords Neville and Lumley, Sir Thomas Hilton, George Bowes, among others.[8] The prevailing ideology for the rising among the Durham commons was based on the fictional Captain Poverty from the medieval poem *Piers Plowman*, which first appeared in pamphlets at the muster in Richmond.[9] Once the Durham commons had risen under the leadership of the gentry and secured Barnard Castle and Brancepeth, they marched on the city of Durham where they sacked the chancery and scattered records. They then despoiled the bishop's palace at Auckland and forced Bishop Tunstall to flee in the middle of the night to safety at Norham Castle.[10] The Durham rebels later joined with those from Yorkshire, occupied the city of York, and

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[6] M.E. James has rightly claimed that there has been no study done on the Pilgrimage in Durham: *Family, Lineage, and Civil Society: a study of society, politics and mentality in the Durham region, 1500-1640* (Oxford: Clarendon Press, 1974), 47; J.C. Dewdney also asserted that less is known about the Pilgrimage in Durham than about the rest of the north, *Durham County and City with Teesside* (Durham: British Association for the Advancement of Science, 1970), 216.

[7] M. Bush, *Pilgrimage of Grace: A Study of the Rebel Armies of Oct 1536* (Manchester: Manchester University Press, 1996), 149-50.

[8] *L.P.*, Jan-May 1537, 18.

[9] G. Moorehouse, *The Pilgrimage of Grace: The Rebellion that Shook Henry VIII's Throne* (London: Wiedenfeld, 2002), 102-3.

[10] Moorehouse, *Pilgimage of Grace*, 129-30; C. Sturge, *Cuthbert Tunstal, churchman, scholar, statesman, administrator* (London: Longmans, Green and Co., 1938), 153.

captured the royal castle at Pontefract several days later. At Pontefract, Lords Neville and Latimer, Sir James Strangewise, Sir John and Sir William Bulmer, Robert Bowes, and "young Bowes" led a contingent of 5,000 men from Richmondshire and the bishopric who carried the banner of St. Cuthbert.[11] The Pilgrims confronted the Duke of Norfolk's troops at Doncaster where a truce was concluded on 27 October.[12]

A rebellion rose in the new year led by Sir Francis Bigod and John Hallom in the Lake Counties once it became apparent that the king would not hold a northern parliament at York. The countess of Westmorland informed her husband, the earl, who was then absent from the north, that a servant of Bigod had distributed letters in Durham, Auckland, Staindrop and Richmondshire inviting the commons to join in the rebellion, which they had refused,

> You are beholden to the bailiff of Durham and Cuthbert Richardson who without opening the letter brought it straight to me and sent answer to Sir Francis that the men of Durham have sworn to the earl of Westmorland to rise at no command but the King's or the Earl's in the King's name, and will stick to the King's pardon.[13]

Crown servant, Sadler, informed Cromwell that Sir Robert Bowes was chiefly responsible for keeping the peace in Durham, for, "had [he] not come home when he did there would have been a new insurrection." Sadler told the first minister that, "[Bowes] continually goes from place to place bringing the people into good stay."[14] A pardon was issued in the northern counties and the bishopric in July 1537 to those who had participated in Bigod's Rebellion that "notwithstanding his Highness' late mercy to you, been seduced by the traitor Bigod into a new rebellion…[he] grants a general and free

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[11] *L.P.*, Jan-May 1537, 191, 5.
[12] C.S.L. Davies, "Popular Religion and the Pilgrimage of Grace," in *Order and Disorder in Early Modern England*, eds. A. Fletcher and J. Stevenson (Cambridge: Cambridge University Press, 1985), 61.
[13] *L.P.*, Jan-May 1537, 67.
[14] Ibid., 122.

pardon for all treasons, rebellions, &c. committed from the beginning of the first insurrection until the date of this proclamation."[15]

The crown's response to the Pilgrimage of Grace was to strengthen the Council of the North, re-founded in 1525, into a permanent royal judicial and administrative body in the north in 1537. The jurisdiction of the renewed Council, previously restricted to Yorkshire, was extended over the three most northern counties, Northumberland, Westmorland and Cumberland, Yorkshire and the palatinate of Durham. Tunstall was appointed to act as the renewed Council's Lord President in 1537, at a salary of £800 p.a., a position the aging bishop was reluctant to fill, sending the king a letter stating the reasons he believed he should not be appointed.[16] The authority of the Council was derived from the King's Council of the North, established by Richard III in the late fifteenth century.[17] The Council was granted the general administration and judicial control of the four counties and palatinate, as well as care for the maintenance of peace and the authority to suppress disturbances.[18] It was responsible for the supervision of local justices of the peace and town government, but lacked legislative jurisdiction, being in constant communication with the king and Privy Council for instruction.[19]

The Council took a leading role in distributing justice following the Pilgrimage. The Duke of Norfolk, the king's lieutenant in the north, informed Cromwell on 7 March 1537 that the council planned to sit the following Friday or Saturday to deliver justice to the Durham rebels. Between twenty and twenty-four were arrested and Norfolk desired

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[15] *L.P.*, Jan-May 1537, 135.
[16] Ibid., 237-8.
[17] R. Reid, *The King's Council in the North* (London: Longman, 1921), 66; Sturge, *Cuthbert Tunstal*, 145-6.
[18] G.T. Lapsley, "The Problem of the North," in *Crown, community and Parliament in the Later Middle Ages*, eds. G.T. Lapsley, C. and G. Barraclough (Oxford: Blackwell, 1951), 403-4.
[19] Reid, *King's Council*, 159, 164.

to know how many the king wanted to have executed, "Folks think the last justice at Carlisle great, and if more than twenty suffer at Durham and York it will be talked about."[20] The following day, Norfolk notified Cromwell that the bishopric had been omitted from the original commission and requested a new one made that included the franchise, stating that he would not proceed with the trials of the rebels until it was received.[21] Norfolk led the Durham proceedings that commenced on 11 April 1537 where John Follansbye, gentleman, Henry Brasse and Henry Hutton of Snathe came before the council for their involvement in the uprisings. Thirteen rebels were executed in the city of Durham the following day.[22]

With the exception of the crown's response to the Pilgrimage of Grace, the Council normally lacked jurisdiction over treason and felonies and did not have the authority to punish by loss of life or limb.[23] The Council did not have the authority to levy force when their precepts were resisted since the gentlemen of the region were sworn to levy no men except at the king's command, a policy that prompted Tunstall to request more corporal power for the Council from Cromwell.[24] Sessions were held quarterly in which civil and criminal matters were addressed. As president, Tunstall maintained a position of great individual power and possessed the authority to overrule the decisions of the Council.[25] After Tunstall was summoned to attend upon the king in London in 1538, the crown continued to appoint northern ecclesiastical magnates to the office of president. Robert Holgate, bishop of Llandaff, from a Yorkshire family, was

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[20] *L.P.*, Jan-May 1537, 277.
[21] Ibid., 278-9.
[22] Ibid., 418-9.
[23] Sturge, *Cuthbert Tunstal*, 164.
[24] *L.P.*, Jan-May 1537, 322.
[25] Sturge, *Cuthbert Tunstal*, 164.

commissioned to replace the bishop of Durham at the post in June 1538. Holgate held the presidency for eleven years and was also elevated to the archdiocese of York in 1545.[26] The reliance on northern nobility to manage the borders mitigated the influence of the crown in the region. Furthermore, Durham was excluded from the jurisdiction of the Council as early as 1556, although the bishopric appeared in the Elizabethan commissions issued to the council.[27] The reorganization of the Council of the North represented only a minor intrusion on the administration of justice in the palatinate.

As with the earlier turbulent relationship between Bishop Bek and Edward I, many of the crown's infringments on the palatinate's liberties resulted from the personal relationship between Tunstall and the monarch. Tunstall's objections to the religious policies of the Edwardian Council led to his arrest and deprivation in October 1552. The bishopric of Durham was dissolved by a parliamentary statute in 1553 that created two smaller bishoprics, Durham and Newcastle, in its place, justifying it by claiming that the former diocese of Durham had been too large. The act provided for a dean and chapter at Newcastle with an unspecified endowment, while the castles of Durham and Auckland passed to the crown.[28] Lands formerly belonging to the bishopric were granted out: the office of Captain of Norham Castle was conferred on Robert Bowes, who was paid a fee of £40 p.a. and given the income from lands in Norhamshire to provision the castle; a second grant was made to Sir Francis Jobson of lands in Howdenshire worth £285 p.a.; a third granted Coldharbour and some London properties to the Earl of Shrewsbury.[29] On 4

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[26] A.G. Dickens, *Robert Holgate: Archbishop of York and President of the King's Council in the North*, (London: St. Anthony's Press, 1955), 10.
[27] W.J. Jones, "Palatine Performance in the Seventeenth Century," in *The English Commonwealth 1547-1640: essays in politics and society presented to Joel Hurstfield*, eds. P. Clark, A.G.R. Smith and N. Tyacke (Leicester: Leicester University Press, 1979), 193.
[28] 7 Edward VI c. 17.
[29] D.M. Loades, "Last Years of Cuthbert Tunstall, 1547-59," *D.U.J.*, ns, 35 (1973), 16.

May the "bishop's county palatine" was transformed into the "king's county palatine" by letters patent that also granted the Duke of Northumberland the office of "Chief Steward of all the king's lands" for life.[30]

The deprivation of Tunstall was reversed by letters patent from Queen Mary on 18 January 1554. On 23 August 1553, the queen had created a new commission under the leadership of the Earl of Arundel to examine the conviction and deprivation of Tunstall by the Edwardian Council. Mary's commission found in favour of the bishop, quashed the deprivation, and reinstated Tunstall to a reconstituted diocese with the same territorial jurisdiction as the ancient see.[31] The government attempted to see through parliament a bill called, "for the confirmation of the bishopric of Durham and Durham Place, to Cuthbert Tunstall, and his successors." It was defeated in its third reading because the House of Commons objected to the granting of Durham Place in London to the bishop. Durham Place had passed to the crown after Wolsey's deprivation and was then in the use of Princess Elizabeth. Mary restored the diocesan lands by letters patent in January 1554, except Durham Place, which Tunstall acquired in 1558 with the aid of Cardinal Pole.[32] In April, parliament passed an act repealing the dissolution of the see by Edward's Council and also the act that annexed the palatine town of Gateshead on the south side of the Tyne River to the city of Newcastle.[33] The restoration of the bishop was retroactive, granting him all issues, profits and jurisdiction from 14 October 1552, thus eliminating any disruption caused by the deprivation.[34]

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[30] *C.P.R.*, 1553-1554, 177.
[31] *The Statutes of the cathedral church of Durham, with other documents relating to its foundation and endowment by King Henry the eighth and Queen Mary*, ed. A.H. Thompson, S.S., v. 143 (Durham: Andrews & Co., 1929), 199; *C.P.R.*, 1553-1554, 76, 377-8.
[32] *C.S.P. Dom*, 1547-1580, 105.
[33] 1 Mary, st. 3, c. 3; *Act for annexing the town of Gateshead to Newcastle*, 7 Edward VI c. 10.
[34] Loades, "Dissolution of the Diocese," 101; *C.P.R.*, 1553-1554, 377-8.

The final legislative act of the mid-Tudor period that had consequences for the bishop's administration of Durham was the Act of Exchange of 1559. Instituted by Elizabeth, the act permitted the crown to appropriate temporal resources of an empty see equivalent to the value of the spiritualities and tenths held by the crown in that diocese, which were offered in exchange. The act also declared that gifts made by the bishops to anyone other than the crown after the beginning of parliament on 25 January 1559 were void. No layperson could lease ecclesiastical lands for longer than twenty-one years, rendering the crown the only lay landholder of ecclesiastical lands in perpetuity.[35] The bishops were assured of retaining their residences and the attached lands that provided for the maintenance of their households.[36] Many of the crown leases were later awarded to favoured patrons, thus making ecclesiastical land in the possession of laypersons hereditary. Thus, with the exception of the dissolution of the diocese resulting from the conflicts between Tunstall and Somerset over religious policy, none of the crown acts were directed towards Durham. They did, however, have secondary consequences for Durham and the bishop's ability to administer the palatinate.

The crown was concomitantly conducting a series of doctrinal and ecclesiastical reforms. Adherence to traditional catholic practices was strong in the northern borders. The provision of the reformed churches for doctrinal education and religious supervision was little better than the church it succeeded.[37] One of the fundamental explanations for the slow growth of protestantism in the north was the inability of the region to attract educated clergy. According to the *Valor*, thirteen Cumberland and seventeen

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[35] 1 Eliz. c. 19.
[36] F. Heal, *Of Prelates and Princes: A Study of the Economic and Social Position of the Tudor Episcopate* (Cambridge: Cambridge University Press, 1980), 205.
[37] Susan Keeling, "The Reformation in the Anglo-Scottish Borders," *N.H.* 15 (1979), 26.

Northumberland cures were worth less than £5.[38] Another factor was the absence of major towns, with the exception of Newcastle, where there was the only heresy trial recorded in the register of Cuthbert Tunstall.[39] In the twenty years immediately following the royal supremacy there were forty cases of pluralism in the border counties, ten vacant cures in Cumberland, five vacant offices in Northumberland, and up to twenty-four more instances in which no incumbent is recorded.[40] In Durham between 1530 and 1553 one in five priests was a pluralist.[41] Following the Scottish Reformation, many catholic priests crossed the border and served in England's northern parishes.[42] The presence of conservative bishops in the border sees, Tunstall in Durham and Kyte, Alderidge and Oglethorpe in Carlisle helped to delay the spread of protestant theology.[43]

Wills from sixteenth-century Durham indicate that traditional piety was strong in the 1530s. The majority of wills, such as that of John Sherwood of Houghton in 1533, bequeathed the soul of the departed to "the blessed Lady St. Mary and all holy company in heaven," suggesting that reverence for saints remained high. Sherwood's will provided money for prayers and for the singing of masses for his soul.[44] The 1531 will of Sir William Bulmer, knight, provided prayers for the souls of himself, his father, mother, wife, and all Christian souls.[45] The diocese contained 113 parishes, forty-nine in Durham and sixty-four in Northumberland. There were no ordinations in the diocese during the

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[38] Ibid., 27.
[39] Whiting, *Blind Devotion*, 259; The only example of heresy for this period is the trial of Roger Dichaunte, a merchant of Newcastle in 1530 in *The Registers of Cuthbert Tunstall, bishop of Durham 1530-59, and James Pilkington, bishop of Durham 1561-76*, ed. G. Hinde, S.S., v. 161 (Durham: Andrews, 1952), 34-6.
[40] Keeling, "Anglo-Scottish Borders," 29.
[41] A. Forster, "Bishop Tunstall's Priests," *Recusant History* 9 (1967), 176.
[42] Keeling, "Anglo-Scottish Borders," 30.
[43] Ibid., 35.
[44] *Wills and Inventories from the Registry at Durham*, ed. W. Greenwell, S.S., v. 112 (Durham: G. Andrews, 1906), 111.
[45] Ibid., 110.

episcopate of Thomas Wolsey, but Tunstall ordained over 100 seculars and thirty-one regulars between 21 September 1532 and 18 December 1535, attesting to the continuing popularity of traditional church life and its doctrine.[46] Wills, however, need to be treated with caution, as word usage may be a reflection of the notarial formula, rather than an expression of the religious views of the author.

The most noticeable consequence of the religious reforms was the dissolution of the country's monasteries. The first phase of the crown's attack on ecclesiastical possessions ended in 1540 when Waltham Abbey surrendered to the crown, the final house of over 800 dissolved in four years.[47] The suppression of the monasteries found its doctrinal support in Lollard criticisms on the virtues of monastic asceticism and in contemporary continental Protestantism.[48] The religious institutions and the parishes were the first locales affected by the religious changes through the dissolution of local ecclesiastical institutions such as monasteries, hospitals and collegiate churches.[49] The act of suppression of 1536 initiated the confiscation of church land, and criticized the laxity of the smaller houses, "forasmuch as manifest sin, vicious, carnal and abominable living, is daily used and committed amongst the little and small abbeys, priories, and other religious houses of monks, canons, and nuns, where the congregation of such religious persons is under the number of twelve persons," but praised the quality of the religious

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[46] *Registers of Tunstall and Pilkington*, 27-8, 42-5, 47, 52-3, 54-5, 58, 62-3, 65-6; In her book, *Reformation in Britain and Ireland*, Felicity Heal incorrectly assumes based on S. Thompson, "The Pastoral Work of the English and Welsh Bishops, 1500-1558," University of Oxford D.Phil. thesis (1984) that there were no ordinations in Durham in 1547 or after. An examination of Tunstall's and Pilkington's registers, however, shows that ordinations were performed on 9 April 1547 and 4 June 1547, 88-9 and again 28 February 1556, 105.

[47] J.J. Scarisbrick, "Henry VIII and the dissolution of the Secular Colleges," in *Law and Government under the Tudors: essays presented to Sir Geoffrey Elton, Regius Professor in the University of Cambridge, on his retirement*, eds. C. Cross, D.M. Loades and J.J. Scarisbrick (Cambridge: Cambridge University Press, 1988), 51; A.G.R. Smith, *The Emergence of a Nation State: the commonwealth of England 1529-1660* (London: Longman, 1984), 28-9.

[48] D. Knowles, *Religious Orders*, v. 3 (Cambridge: Cambridge University Press, 1959), 291.

[49] N.L. Jones, *The English Reformation: religion and cultural adaption* (Oxford: Blackwell, 2002), 61.

lives in the greater ones, "so that without such small houses be utterly suppressed and the religious persons therein committed to great and honorable monasteries of religion in this realm, where they may be compelled to live religiously for reformation of their lives," thus, providing a justification for the dissolution of those houses with an annual income of less than £200.[50] The dissolution negatively affected the bishop of Durham's patronage and the authority of the prior, but this was an incidental consequence of the religious reforms rather than a direct attack against the power of the palatinate.

The English border counties were particularly devastated by the loss of the monasteries. The north was the only region in which the royal commissioners were met with armed resistance in the performance of their duties. The monks and local residents at Hexham in Northumberland and Norton in Cheshire attempted to prevent the dissolution of their houses with the use of force.[51] Prior to the dissolution, members of religious houses served twenty-six border cures in Westmorland, Cumberland and Northumberland.[52] More important than their religious function was the monasteries' usefulness as safe-havens and fortified structures in the unsettled borders.[53] Beyond this, the monks were unable to offer much in the way of infrastructure or education.[54] The ten monastic houses in Northumberland held one hundred monks and canons ranging in size from fifteen to twenty monks at the largest houses, to two or three at the smallest, serving a total of eleven Northumbrian cures.[55]

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[50] 27 Henry VIII c. 28.
[51] J. Youings, *The Dissolution of the Monasteries* (London: George Allen and Unwin, 1971), 48.
[52] Keeling, "Border Counties," 30.
[53] Ibid., 35.
[54] Ibid., 36-7.
[55] Ibid., 34-5, 37.

There were forty-nine religious institutions in Northumberland and thirteen in Durham before the suppressions, comprising 28 monasteries, four nunneries, and twenty-three hospitals. The cells of Durham Cathedral monastery, Farne Island and Lindisfarne were situated in Northumberland and those in Finchale, Jarrow, Samford and Monkwearmouth were in Durham. Warmington, a cell of St. Mary's, Yorkshire was in Northumberland.[56] The estimated number of religious in the diocese has been calculated at approximately 280 monks, canons and nuns.[57] The 1536 dissolution of houses with an income of less than £200 did not claim any establishments in the palatinate. The nunnery at Neasham in Durham was relieved and the remaining - Samford, Holy Island, Finchale, Jarrow, and Monkwearmouth - were all cells of the monastery at Durham and were exempted from the legislation.[58] Four houses in Northumberland were dissolved.[59]

Several sixteenth-century endowments testify to the continued popularity of the Durham and Northumbrian monasteries. In 1521, Lord Darcy purchased a year of masses for his brethren of the Order of the Garter from the Newcastle Franciscans. The sixth earl of Northumberland, Henry Percy, conferred on the friars of St. Mary of Mount Carmel at Hulne a manor at Alnwick in 1530. The following year he granted the abbey of Alnwick a stipend for one priest within the castle of Warkworth to say daily masses for himself and his family.[60] Smaller bequests were also made through wills. John Sayer of

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[56] The number of religious institutions in the diocese of Durham is based a table provided by F.A. Gasquet, *English Monastic Life*, 4th ed. (London: Methuen, 1910), appendix.
[57] D. Hay, "The dissolution of the monasteries in the diocese of Durham," *Archaeologia Aeliana*, 4th ser., 15 (1938), 71-4.
[58] 27 Henry VIII c. 28.
[59] Hay, "Dissolution of Monasteries in Durham," 94; C. Sturge, *Cuthbert Tunstal*, 256.
[60] Hay, "Dissolution of Monasteries in Durham," 76.

Warsall, esquire, bequeathed 5s. each to the friars at Yarm, Alverton, Hartlepool, and the friars observant in Newcastle in 1530.[61]

One of the largest and wealthiest monasteries in the country, Durham housed sixty-six monks, a prior and close to sixty servants, with possessions and lands valued at £1,572 p.a. in the *Valor*.[62] At the dissolution, the rental values of the lands themselves were worth close to £1,300.[63] The monastery received favourable reports from the commissioners, Drs. Legh and Layton, who informed Cromwell that, "in Durham Abbey your Injunctions can take none effect in some things, for there was never yet woman within the Abbey further than the church, nor they never come within the town."[64] One of the last monasteries to surrender, Durham survived the dissolution to be re-founded as a secular cathedral chapter in 1541.[65]

The conversion of the cathedral monastery at Durham into a secular chapter provided significant economic, spiritual and physical continuity for the bishopric. The first cathedral monastery to become a secular chapter was All Saints in Norwich, which had converted to a chapter in 1538. At Durham, it took a full eighteen months after its surrender on 31 December 1539 to convert the monastery into a chapter when the charter was issued in May 1541. Half of the original sixty-six monks were pensioned at the surrender, five more were pensioned in 1541, and the remainder continued their religious life in the chapter, including Prior Hugh Whitehead, who became dean of the new establishment. Twelve monks were given prebend stalls, twelve more became minor

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[61] *Wills and Inventories*, 109.
[62] Loades, "Monastery into Chapter," 316; The *Valor* does not include the income derived from the coalmines by the cell of Finchale, £30/annum and Durham, £180/annum. D. Hay, "Dissolution of Monasteries in Durham," 114.
[63] James, *Family, Lineage and civil society*, 30.
[64] Sturge, *Cuthbert Tunstal*, 257; *L.P.*, Jan-Jul 1536, 64.
[65] Prior Hugh Whitehead made the surrender on 31 December 1539 to the commissioners Hendle, Legh, Bellasis and Watkins. *L.P.*, 1539, 365-6.

canons, seven were retained as divinity students, and the offices of gospeller, epistoler, schoolmaster and usher were filled. Many of those who received pensions served in the chapter's dependent parishes. The pensions ranged from as little as £5 p.a. to as much as £6 14s. 4d p.a.[66] In the year and a half between the surrender and the foundation monastic life continued as before at Durham. The accounts of the treasurer, Robert Bennett, show that the community continued to collect rents and other dues even while it had no legal existence.[67]

The king's charter granting the foundation of the secular chapter in 1541 bestowed the same lands and privileges to the community that it had enjoyed previously as a monastery. The chapter continued to serve the same social functions it had for centuries, particularly education of youth, alms for the poor and aged, repair of roads and bridges, and the defense of the borders. The foundation charter states that,

> with the inspiration of the divine clemency desiring nothing more heartily than true religion and true worship of God in that place not only should not be abolished but rather restored to its entirety and reformed to its primitive or genuinely unalloyed pattern....that there shall be created, erected, founded and established a Cathedral Church of a Dean in priest's orders and twelve prebendaries, priests, who shall in that place serve almighty God entirely and for ever[68]

The cathedral statutes granted by Henry VIII are not extant, perhaps because a copy was never forwarded to Durham, but the statutes were reissued under Philip and Mary on 20 March 1555. On 19 January 1555, the king and queen commissioned Cuthbert Tunstall, Edmund, Archbishop of York, Nicholas, bishop of Worcester, Thomas, bishop of Ely and the royal chaplain, William Armestede, to write statutes for the cathedral chapter at

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[66] Sturge, *Cuthbert Tunstal*, 262.
[67] Loades, "Monastery into Chapter," 321.
[68] *The Statutes of the Cathedral Church of Durham*, 3, 5.

Durham to be confirmed under the great seal.[69] In these statutes, which are believed to resemble closely those originally issued by Henry VIII, the chapter was granted the status of a body corporate as the Chapter of the Bishopric of Durham, with perpetual succession, their own seal, and the right to sue and be sued. While appointments to the deanery, prebends and almsmen were reserved for the crown at the time, the chapter maintained the right to appoint all inferior officers of the church, to discipline them, and remove them when necessary, owing accountability to no superior.[70] The following year, Mary issued letters patent granting the nomination, presentation and collation of all twelve prebends to the bishop of Durham, while retaining for the crown the right to appoint to the deanery.[71]

The major change affected in the transition from monastery to chapter was the reduction of the number of religious to half of the original foundation. The cell at Oxford was surrendered in 1546, but Trinity College, which was founded in 1555 using the buildings of the old Durham College, continued to have an interest in local affairs including the right of patronage to two small vicarages in Northumberland. The song school at Durham, unlike most others at the Reformation, was not abolished because of its close connection with the grammar school, and was increasingly integrated into the preparatory school until it was dissolved in 1690.[72] The dedication of the cathedral church was changed from the Church of the Blessed Virgin Mary and St. Cuthbert the

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[69] *C.P.R.*, 1554-1555, 344.
[70] Loades, "Monastery into Chapter," 323-4. See also J. Freeman, "The Distribution and the Use of Ecclesiastical Patronage in the Diocese of Durham, 1558-1640," in *The Last Principality: Politics, Religion and Society in the Bishopric of Durham, 1494-1660,* ed. D. Marcombe (Nottingham: University of Nottingham Press, 1987), 152-175.
[71] *C.P.R.*, 1555-1557, 123.
[72] Sturge, *Cuthbert Tunstal*, 259.

Bishop, to the Cathedral Church of Christ and the Blessed Virgin Mary His Mother, thus excluding Durham's patron saint.[73]

The monks who were retained in the newly founded chapter of Durham offered stability in the religious guidance of the diocese. Of the twelve monks who were granted prebendal stalls in 1541, six appear in the Act book for the Royal Visitation of 1559 for accusations of adherence to Catholic doctrine or loyalty to the papacy. Robert Dalton, bachelor in Theology and vicar of the parish of Billingham, holding the seventh canon stall, was charged as a preemptory recusant for reportedly saying that, "he believes that he who sits in the seat of Rome has and ought to have the jurisdiction ecclesiastical over all Christian Realms." Dalton was deprived of his office and fined £300. William Bennet, doctor of Divinity, fourth prebendary and vicar of Ayclif suffered the same fate. Other prebendaries who were declared obstinate recusants and deprived by the visitors were George Cliffe, Thomas Sparke, Stephen Marley, John Towten and Nicholas Marley. Most of these men held positions as vicars or rectors in the diocese, such as Dalton and Bennet, and also Thomas Sparke, who was Bishop Suffragan of Berwick until his deprivation.[74] Four of those appointed in 1541 - Edward Hyndmars, Hugh Whitehead, William Watson and Robert Bennet - had died before the 1559 visitation.[75] Eight minor canons were deprived. Four men who refused to conform under Elizabeth had been personally selected by Bishop Tunstall, while one prebendary, Roger Watson, signed the articles.[76]

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[73] *Statutes of the Cathedral Church of Durham*, 5; Sturge, *Cuthbert Tunstal*, 263.
[74] *Durham Cathedral Statutes*, 7; *The Royal Visitation of 1559: Act Book for the Northern Provinces*, ed. C.J. Kitching, S.S., v. 187 (Gateshead: Surtees Society, 1975), 21-23.
[75] S.L. Greenslade, "The Last Monks of Durham Cathedral Priory," *D.U.J.*, ns, 10:3 (1949), 109-112.
[76] Forster, "Bishop Tunstall's Priests," 178.

Given the reverence for St. Cuthbert in the north and throughout the country, one of the most significant acts of the royal commissioners was the destruction of the saint's shrine. The shrine was pulled down in 1537 by Dr. Legh, and Masters Blythman and Henley. The commissioners mishandled the body and one of the saint's legs were broken, his corpse having apparently been otherwise uncorrupted for over 800 years. Cuthbert's corpse was not immediately removed from the cathedral and remained another four years in the vestry. In 1542, Tunstall commissioned the construction of a new coffin for the saint's body, with what vestments and treasures had been hidden from thieves, which was re-buried where the shrine formerly stood.[77] The destruction of the shrine of St. Cuthbert was significant, not only because of its religious symbolism in a society that was centred around its monastery, but also because St. Cuthbert provided the justification for the immunities possessed by the palatinate.

The demolition of the shrines of Sts. Cuthbert and Bede, which also stood within Durham Cathedral, were performed in direct response to the Pilgrimage of Grace. There has been much scholarly debate about the influence of the suppression of the lesser houses on the Pilgrimage; the last of the smaller houses in Lancashire was dissolved only weeks before the uprising began there in early October 1536. According to Lancashire historian Christopher Haigh the suppression of the smaller houses initiated the rising of the county's residents who expressed discontent more with the crown's religious policies than with economic grievances.[78] Religious imagery was also an important part of the Pilgrimage. The participants of the risings saw themselves as defenders of traditional religion demonstrated by sporting the badge of the five wounds of Christ and carrying the

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[77] Sturge, *Cuthbert Tunstal*, 259-61.
[78] C. Haigh, *The Last Days of the Lancashire Monasteries and the Pilgrimage of Grace* (Manchester: Cheltham, 1969), 50-1.

banner of St. Cuthbert supplied by the Durham commons. All participants were required to swear an oath, "for the love that ye do bear unto Almighty God his faith, and to his Holy Church militant and the maintenance thereof, to the preservation of the King's person and his issue," and to rid the realm of "villein blood and evil councilors," which further solidified the religious purpose of the pilgrims.[79]

Another physical consequence of the religious reforms that had repercussions for the bishop's patronage was the dissolution of the collegiate churches. The final years of Henry's reign were occupied with war with France and Scotland. To finance his military endeavors, Henry initiated sporadic dissolutions of colleges and hospitals. The Chantries Act of 1545, which was not passed before Henry's death, used the necessity of meeting war costs as the justification for the dissolutions.[80] Chantry founders or their families, who had been making preemptive private confiscations since the mid-1530s when Henry began his dissolutions of monastic establishments, were required to turn over their land to the crown.

The dissolution of the chantries and the destruction of shrines and images formed the core of the Edwardian religious reformation, which strove to eliminate symbols reminiscent of a popish doctrine.[81] The theology of John Wyclif and Luther's "justification by faith alone" provided the theological rationale for the dissolutions under the Protectorate. In the fourteenth century, Wyclif had expressed outrage at the church's exploitation of purgatory for monetary gain, while on the continent, Luther questioned

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[79] Davies, "Popular Religion and the Pilgrimage of Grace," 75-7.
[80] 37 Henry VIII c. 4.
[81] E. Duffy, *The Stripping of the Altars: Traditional Religion in England 1400-1580* (New Haven, CT: Yale University Press, 1992), 480.

the necessity of performing good works for the attainment of salvation.[82] On 24 December 1547, the House of Lords passed an act based on the 1545 Chantries Act to dissolve the chantries and early the following year commissioners began surveying the land.[83] The suppression involved the seizure of the colleges' landed possessions, their residential buildings and moveable goods, which were subsequently sold by the Court of Augmentations. Plate, precious stones, vestments and other valuables went to the king's jewel house, and the inmates were awarded pensions.[84] The majority of colleges were dissolved in the first two years of Somerset's Protectorate between 1547 and 1549.[85]

In Durham, six collegiate institutions fell under the provisions of the dissolution act of 1547. Four - Darlington, Chester-le-Street, Lanchester and St. Andrews, Auckland - were home to a dean and prebendaries. Another was a chantry college attached to Staindrop Hospital; the last was Norton near Stockton, which held eight portionaries among whom the income of the college was equally divided.[86] Three were of substantial size: Lanchester, the first college established in Durham in the late twelfth century; Staindrop, founded in 1408 by Ralph Neville, earl of Westmorland, to provide prayers for himself and his family and to run a poor house; and Darlington, home of St. Cuthbert's College and one of the finest church buildings in the palatinate.[87] Darlington, Norton and St. Andrews had all been founded at the end of the eleventh century to provide for the dispossessed secular canons of Durham when Benedictine monks were installed in the Cathedral. Bishop Bek was responsible for founding the colleges of Lanchester and

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[82] A. Kreider, *The English Chantries on the road to Dissolution* (Cambridge, MA: Harvard University Press, 1979), 94-6.
[83] 1 Edward VI c. 14.
[84] Scarisbrick, "Henry VIII and Secular Colleges," 59.
[85] Ibid., 52.
[86] Loades, "Collegiate Churches," 65.
[87] Scarisbrick, "Henry VIII and Secular Colleges," 53-5.

Chester-le-Street in 1284 and 1286 respectively.[88] The patronage of all the college prebends belonged to the bishop, with the exception of the chantry college attached to Staindrop Hospital, which remained in the hands of the Neville family until it was dissolved.[89] The dissolution of the collegiate churches reduced the patronage at the bishop's disposal, his income and the amount of land under his control, thereby diminishing the bishop's authority within his own diocese.

The widening wealth gap in the later Middle Ages between the deaneries and the prebends caused deterioration in the quality of the collegiate churches of Durham. At St. Andrews, Auckland in the thirteenth century, for example, the vicar enjoyed £40 p.a. while the wealthiest prebend was worth £46 13s 4d p.a. By 1535, the deanery was valued at £101 p.a. and the wealthiest prebend at no more than £10 p.a. The deanery at Chester-le-Street was worth £41 p.a. in 1535 and the richest prebend only £10 p.a. A similar trend was occurring at the remaining collegiate churches in the diocese.[90] Since the living provided by most prebends was inadequate, the problem of pluralism in the borders was exacerbated. The deans and prebendaries who held more than one office simultaneously were frequently non-resident and failed to perform their traditional duties. It was also not unusual for prebends or deaneries to be leased to laymen for a specified length of time.[91] Thus, at their dissolution, many collegiate churches failed to fulfill the function for which they were intended.

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[88] *Records of Antony Bek; Bishop and Patriarch, 1283-1311*, ed. C.M. Fraser, S.S., v. 162 (Durham: Andrews, 1947), 3, 6.
[89] Loades, "Collegiate Churches," 66-7.
[90] Ibid., 67.
[91] Ibid., 69.

The dissolution of the collegiate churches in Durham diverted £610 p.a. to the Court of Augmentations.[92] Forty incumbents and twenty-two ministers or chaplains were deprived and new arrangements made to provide for the spiritual well being of the four parishes. A vicar was supplied for each parish at Lanchester, Auckland, Chester and Darlington, as well as three curates for Auckland and one for each of the others. The crown appropriated the revenues of Norton and Staindrop without compensating for the continuance of the religious edification of the parish. The revenues of the deaneries from each of the collegiate churches were leased to local gentry almost immediately. The new arrangements, however, did not improve the quality of spiritual guidance offered in the parishes.[93] Thus, the religious reforms in the north, the destruction of the saints' shrines and the dissolution of the monasteries and chantries, had mixed results for the religious welfare of Durham.

Over the course of the first decade of Elizabeth's reign the new religious policy of the crown had various repercussions in Durham, the most notable being the culmination of religious dissatisfaction in the Northern Rebellion of 1569. The Act of Supremacy of 1559 revived the reformation acts of Henry VIII. It abolished the authority of the pope in England that had been reestablished by Mary and granted the queen the title of "Supreme Governor." The crown was awarded the right of ecclesiastical visitations, and authority to correct heresies and errors based on the first four major Christian councils.[94] The second act passed by the first Elizabethan parliament was the Act of Uniformity, which took effect on 24 June 1559. The settlement introduced a revised prayer book based on the second Edwardian prayer book of 1552 but with some of the articles modified in a

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[92] Ibid., 71.
[93] Ibid., 71-5.
[94] 1 Eliz. c. 1.

conservative direction. All ministers were required to say matins and evensong and certain lessons were introduced for use on Sundays. Most importantly, the text of the celebration of the Eucharist was altered to read, "The body of our Lord Jesus Christ, which was given for thee, preserve thy body and soul into everlasting life: and take and eat this in remembrance that Christ died for thee, and feed on him in thine heart by faith, with thanksgiving," which combined the texts in the more conservative prayer book of 1549 and the reformist one of 1552.[95] Before Easter 1559, Elizabeth contemplated permitting the laity communion in both kinds, a proclamation for which was drafted but never proclaimed. The settlement, which required that all clergy adhere to the Acts of Uniformity and of Supremacy, resulted in the deprivation of close to 400 Marian clergy between 1559 and 1564.[96]

The reformations of the mid-Tudor period radically altered the religious landscape of England, and, by extension, the political authority of the bishop of Durham. The dissolution of the monasteries and collegiate churches diminished the bishop's ability to reward his officers, and the strengthening of the Council of the North threatened to impinge upon his judicial jurisdiction. Yet, the three major northern political events of the 1530s - the *Act of Liberties and Franchises*, the Pilgrimage of Grace and the Council of the North - should not be seen as part of a larger and more systematic scheme to subdue the northern borders. The *Act of Liberties and Franchises* was as much directed towards the western border with Wales, where the most dramatic effects of the introduction of the act were witnessed, as it was to the north. The crown made no direct attempt to curb the authority of its leading ecclesiastical subjects in the north rather the

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[95] 1 Eliz. c. 2.
[96] J. Guy, *Tudor England* (Oxford: Oxford University Press, 1988), 290.

changes to the palatine privileges that occurred were incidental consequences of more general religious and political reforms. Another key factor was the role of the bishops whose relationship with the monarch was often a deciding influence on the potential reforms to the palatinate, a matter that will be discussed in the next chapter.

Chapter 3: Palatine Administrators: Bishops, Deans and Chancellors

The palatinate's leading officials were vital to the continued effectiveness of Durham's administrative system between 1530 and 1569. During this time, two bishops, Cuthbert Tunstall and James Pilkington, administered the palatinate. Despite their opposing religious beliefs and personalities, both men had northern roots, both were active in the administration of their diocese and in the defense of the realm against Scotland, and both protected the traditional palatine privileges of their office against potential encroachments from the crown. Equally important were the roles of the temporal chancellor, and the prior of the monastery, who was replaced by the dean of the Cathedral Chapter of Durham in 1541. Between 1559 and 1561 the crown was responsible for the administration of the diocese when the bishopric was *sede vacante*. The crown's governance of the palatinate in this period was regulated by its relations with the leading officials of Durham. The episcopates of Tunstall and Pilkington, and their officers, demonstrate the importance of personal ability in the administration of the palatinate. The late sixteenth-century trend that saw all county and local institutions strengthened, also reaffirmed the palatine administrative institutions. Any direct actions by the monarch that can be described as political challenges to the palatinate fall within the category of traditional noble-crown relations.

Cuthbert Tunstall, bishop of Durham from 1530 to 1559, had family connections in the north. He descended from the Tunstall family of Thurland Castle in northeast Lancashire. Tunstall was born near Hornby Castle in Hackforth, Yorkshire to Thomas Tunstall and a daughter of Sir John Conyers of Hornby Castle. There is uncertainty about the legitimacy of Tunstall's birth, but it is believed that Cuthbert's parents married after

he was born some time in the year 1474.[1] His illegitimate birth is the supposed reason that Cuthbert does not appear as part of the Tunstall family pedigree in the early heraldic visitations of the north, which were conducted some time between 1480 and 1500.[2] His parents' subsequent marriage legitimized him in canon and civil but not in common law.

Tunstall's ecclesiastical career is best described as one upward spiral of continual success and preferment. He was a student at Oxford when an outbreak of the plague forced him to leave without first obtaining a degree. He returned to university in 1496 at King's Hall, Cambridge, which he left three years later, again without a degree, to study with some of the leading humanists of the day at the University of Padua. Tunstall's humanist education was reflected in his personal library. In addition to an extensive collection of conservative theological texts numbering more than 200 volumes, he also possessed an exceptionally high number of texts of philosophy, history and literature in Greek and Latin.[3] He was ordained in 1509 and employed by William Warham, Archbishop of Canterbury, as his chancellor and auditor of causes around the same time. In 1514, Tunstall succeeded Cardinal Wolsey as canon of Lincoln and prebendary of Stow Longa, and in the following year he became archdeacon of Chester. He also began his long career in diplomacy in 1515, when he served as an ambassador, along with an Oxford acquaintance, Thomas More, to the court of Charles, Duke of Burgundy. He was appointed master of the rolls and vice-chancellor in May 1516, and in that year made the acquaintance of the great humanist Erasmus, whose work was to have a great influence

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[1] C. Sturge, *Cuthbert Tunstal, churchman, scholar, statesman, administrator* (London: Longmans, Green & Co., 1938), 3-6.

[2] *Visitations of the North, pt. 3, A Visitation of the North c. 1480-1500*, eds. F.W. Dendy and C.H. Hunter Blair, S.S., v. 144 (Durham: Andrews & Co., 1930), 80-1; *Visitations of the North and some early Heraldic Visitation of, and Collections of Pedigrees relating to the North of England, pt. 1*, eds. F.W. Dendy and C.H. Hunter Blair, S.S., v. 122 (Durham: Andrews & Co., 1912), 121.

[3] W.H. Herendeen and K.R. Bartlett, "The Library of Cuthbert Tunstall, Bishop of Durham," *The Papers of the Bibliographical Society of America* 85 (1991), 242-6.

on Tunstall's scholarship, while on diplomatic duties to the Netherlands. Tunstall was consecrated bishop of London in January 1522 following the death of Richard Fitzjames. He was appointed Keeper of the Privy Seal in 1523, a position he retained until he was translated to the see of Durham on 25 March 1530 where he stayed for the remainder of his episcopal career.[4]

From the outset of the royal divorce proceedings, it was widely known that Tunstall was sympathetic to Queen Katherine's cause, and he was appointed to her advisory council in November 1528 for the trial at Blackfriars, which began in the spring of 1529. Fearing the impact of his treatise in defense of Katherine, Henry pressured Tunstall to absent himself from court on the day he was to give his defense, and later sent the bishop to Flanders as the chief envoy for the negotiations of the peace of Cambrai.[5] By the time Tunstall returned from his diplomatic duties on the continent on 24 August 1529, the trial at Blackfriars had already ended in the queen's appeal of the case to Rome.[6] Henry continued to employ Tunstall in the divorce proceedings and sent the bishop, along with the bishop of Bath and Wells, on a recognizance mission to Katherine to obtain information useful to the king's case and to convince her to abandon her appeal to Rome.[7] At this stage in the proceedings, Tunstall's visit to Katherine is not indicative of a change in his opinion on the legitimacy of the king's marriage.

Tunstall led the dissent expressed by the clergy of York and Durham in the northern Convocation against Henry styling himself "Supreme Head of the Church" and

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[4] D.G. Newcombe, "Tunstal [Tunstall], Cuthbert (1474-1559), bishop of Durham and diplomat," *O.D.N.B.* (Oxford: Oxford University Press, 2004-5), http://www.oxforddnb.com/view/article/27817.
[5] Sturge, *Cuthbert Tunstal*, 174-6.
[6] *L.P.*, 1529-1530, 2625.
[7] Sturge, *Cuthbert Tunstal*, 176.

against paying the praemunire fine.[8] Tunstall personally protested Convocation's recognition of the king's title of "Supreme Head," arguing that while most people would not object to the king's use of *Supremum Caput in terrenis et temporalibus*, if the king was claiming supremacy *in spiritualibus quam in terrenis et temporalibus*, he could not agree, the phrase being opposed to the teachings of the Catholic Church.[9] The divorce proceedings in Convocation also drew the resistance of Tunstall who led the opposing minority to the two matrimonial questions. The Imperial ambassador Chapuys reported to Charles V that the bishop of Durham opposed the divorce in the northern Convocation, and that the king would have put Tunstall in prison with Bishop Fisher if he had been able to find a more able man to manage the borders.[10]

The relationship between Tunstall and his monarch may not have been as antagonistic as Chapuys suggested in his letter. Tunstall reiterated the objections to the royal supremacy he raised in Convocation several days later in a private letter to the king. Henry replied that since Tunstall "interlaces [the letter] with such words of submission he cannot be offended." He insisted he was not claiming headship over spiritual functions, such as the sacraments, but over spiritual men and their acts, arguing that clergy were as much bound to obey Christian princes as were their other subjects. Since there were so many learned men at Canterbury, Henry asked Tunstall, "why do you not conform your conscience to the conscience and opinion of the great number?" [11] There are further

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[8] C. Haigh, *English Reformations: Religion, Politics, and Society under the Tudors* (Oxford: Clarendon Press, 1993), 108.
[9] A.G. Dickens, "The Northern Convocation and Henry VIII," *Church Quarterly Review* 127 (1938), 87-88; Sturge, *Cuthbert Tunstal*, 179-80; *Records of the Northern Convocation*, ed. G.W. Kitchin, S.S., v. 113 no. 2 (Durham: Andrews & Co., 1906), 219-20; *The registers of Cuthbert Tunstall, bishop of Durham 1530-59, and James Pilkington, bishop of Durham 1561-76*, ed. G. Hinde, S.S., v. 161 (Durham: Andrews, 1952), 40-2.
[10] Dickens, "Northern Convocation and Henry VIII," 96.
[11] *Records of the Northern Convocation*, 221-32; *L.P.*, 1531-1532, 761.

instances that demonstrate the candid relationship between Tunstall and his sovereign. In 1533, Tunstall objected to the king's issuance of a booklet of nine articles, some of which denied the authority of the pope, to which the monarch personally replied.[12] As one of the leading spiritual lords of the realm and one of the strongest temporal magnates of the north, Henry desired Tunstall's acquiescence to legitimate his actions and ensure the political obedience of the north. Indeed, as late as 10 April 1540, the French ambassador to England, Marillac, informed Montmorency that he heard on good authority that Tunstall, "a man of great esteem," was to succeed the fallen Cromwell as vicegerent of spirituals, testifying to Henry's continued regard for Tunstall.[13]

Towards the end of 1534, Tunstall began to see the royal supremacy as a means of reforming the church. His humanist education and friendship and patronage of Erasmus suggest that he was open to reform from within the church. Signs of his change of heart are evident as early as 1533 in his acceptance of the king's invitation to Queen Anne's coronation and in his efforts to persuade Katherine to abandon her appeal to Rome in 1534.[14] In May 1532, crown officials, the earls of Westmorland and Cumberland, and Sir Thomas Clifford, searched the bishop's residences for writings against the royal supremacy, of which they found none.[15] The imprisonment of two of Tunstall's closest friends, Bishop Fisher and Thomas More, in 1534 almost certainly contributed to his change of heart. Most likely, however, Tunstall's acceptance of the royal supremacy was the result of his inquiries into the historical foundations of the claim of the bishops of

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[12] Sturge, *Cuthbert Tunstal*, 195-6.
[13] *L.P.*, 1539-1540, 206.
[14] Thomas Morley, "Tunstal – Trimmer or Martyr?," *J.Ec.H.* 24:4 (1973), 337-55.
[15] *L.P.*, 1531-1532, 459.

Rome to primacy within the Christian church.[16] Tunstall made his formal acknowledgement of the royal supremacy in March 1535 in which he renounced the authority of the pope.[17] In addition, Tunstall shared the nation's resentment against papal taxation and presided over the visitation of Cromwell's commissioners in January of 1536. The bishop met the commissioners at their entry into the diocese three or four miles from his house with a large company of servants and conducted them half way to the monastery in the city of Durham.[18]

The following year, Tunstall defended the royal supremacy against the book, *De Unitate*, produced by his good friend Reginald Pole. On 13 July 1536, he informed Pole that he had received his last letter and a copy of his book. Tunstall admitted to seeing much truth in it, but believed it was written far too vehemently. He defended his acceptance of the royal supremacy, writing that Henry VIII remained a Christian king although he abolished the usurped authority of the bishop of Rome, whose position of authority was not conformable with the ancient laws of the church.[19] Pole responded on 1 August 1536 that he believed that Henry had already separated from the Christian church by refusing to owe obedience to the pope like his ancestors. Pole thought that Tunstall's argument was weak, and that he had not thoroughly read *De Unitate*. He held Anne Boleyn responsible for all the disorder then occurring in England.[20]

While remaining in the king's good favour, Tunstall maintained his prominent position in national affairs. He took a leading part in the doctrinal discussions between Henry and the German Lutheran princes in 1538, and in the annulment of the king's

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[16] Sturge, *Cuthbert Tunstal*, 193.
[17] *L.P.*, Jan-Jul 1535, 399.
[18] *L.P.*, Jan-Jun 1536, 64.
[19] *L.P.*, Jul-Dec 1536, 34-5.
[20] Ibid., 92-3.

marriage to Anne of Cleves.[21] He was a member of the body of bishops who worked on the King's Book in 1540. In 1542, he was dispatched to the north for the defense of the realm against the Scots until 1545 when he was commissioned for a diplomatic mission with Sir William Paget, secretary, and John Tregonnel, master of requests, to Calais to treat with the French for peace.[22] He was named as one of two ecclesiastical executors for Henry's will along with Thomas Cranmer, and was on the Privy Council for the minority of Edward VI.[23] Tunstall did not pose a substantial personal threat to either Henry's monarchy or to his reforms, nor did the palatine authority that the bishop wielded pose a threat to the state.

While named to the governing council for the minority of Edward VI by Henry VIII, Tunstall quickly found himself at odds with the majority of the council regarding the crown's religious policies. Tunstall was a member of the Privy Council between Henry's death on 28 January 1547 and 11 March 1547. He was one of the privy councillors reappointed under the protectorate of the Duke of Somerset on 18 March 1547 and continued in that post until May 1549. Tunstall was also present at the parliaments of November and December 1547 where he opposed the council's Chantries Act of 1547, and at the parliament that sat from November 1548 to May 1549 where he voted against the Act of Uniformity.[24] Tunstall was expelled from the Privy Council on 13 October 1549 because of his continued objections to the council's religious policies. Tunstall left the court for his bishopric on 2 February 1550, but was recalled to London in August to sign papers supporting the Council's religious acts. When Tunstall refused, his

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[21] Sturge, *Cuthbert Tunstal*, 220.
[22] *L.P.*, 1545, 512.
[23] Morley, "Tunstal - Trimmer or Martyr?," 341.
[24] D.M. Loades, "The Last Years of Cuthbert Tunstall," *D.U.J.*, ns, 35 (1973), 12; D.E. Hoak, *The King's Council in the Reign of Edward VI* (Cambridge: Cambridge University Press, 1976), 42-7.

membership in the Privy Council was officially ended on 17 August 1550. He was accused of plotting against the government in collusion with Henry Neville, Earl of Westmorland, by Ninian Menville, a Neville family dependent, and was committed to house arrest on 20 May 1551 and later to the Tower on 20 December 1551.[25] That day a commission was issued to Sir George Conyers, Robert Meynell and Robert Hyndemar to seize and inventory Tunstall's goods, chattels and money.[26] Northumberland deprived Tunstall of the bishopric on 14 October 1552, the House of Commons having rejected his first attempt to do so by a parliamentary act of attainder that subsequently disappeared.[27] The charge of covering up a potential northern uprising concealed the real motivations behind Tunstall's arrest, which was his opposition to the government's religious policy and Northumberland's desire to benefit from the temporalities of the wealthy see.[28]

D.M. Loades' contention that no attempt was made to appoint a new bishop to the see of Durham after Tunstall's deprivation is not substantiated by the evidence.[29] In November 1552, Northumberland asked that the auditor for the late bishop of Durham's possessions be sent for "in order to gain true knowledge for the proceedings with the newly elected bishop."[30] Northumberland wrote to Cecil on 3 December 1552 that he hoped "that a bishop of Durham be appointed without delay."[31] Northumberland continued to communicate with Cecil over the appointment of a new bishop to the see in the new year, telling him on 2 January 1553, that he hoped "the new year will receive a

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[25] *P.C. Reg.*, 1550-1552, 277.
[26] Ibid., 448-9.
[27] Morley, "Tunstal - Trimmer or Martyr?," 343-4; *The Statutes of the cathedral church of Durham, with other documents relating to its foundation and endowment by King Henry the eighth and Queen Mary*, ed. A.H. Thompson. S.S., vol. 143 (Durham: Andrews & Co., 1929), 193-95.
[28] *Durham Cathedral Statutes*, 195-7.
[29] Loades, "Dissolution of the Diocese," 103.
[30] *C.S.P. Dom*, 1547-1580, 47.
[31] Ibid., 48.

new bishop of Durham."[32] Northumberland's expressed desire to obtain for himself the palatinate of Durham in the spring of 1552 may have been misleading.[33] Clearly, the duke intended to keep the temporal jurisdiction of the palatinate and its wealthy temporalities, but sought to appoint a new bishop to the see. Northumberland was not opposed to the idea of a semi-autonomous palatinate existing in the kingdom, but to Tunstall, whose challenge to the duke was based on his personal objection to the religious policies, and within the realm of crown-noble relations.

Immediately after his release and restoration to the see by Mary in 1554, Tunstall was active in Mary's government. He was a close advisor of the queen, serving on numerous committees and ecclesiastical commissions, particularly those that deprived the Protestant Edwardian bishops in March 1554.[34] On 18 February 1554, Tunstall was named as a commissioner of the peace for the county of Middlesex.[35] On 25 May 1557, he was appointed to the commission to treat with the Scots for the preservation of mutual friendship and public peace, and the reformation of criminals.[36] Tunstall was a reluctant participant in the burnings of the Marian martyrs, taking a minor role in the trials of notable Protestants and refusing to martyr anyone in his diocese.[37]

Tunstall's long career as statesman and bishop of Durham finally came to an end in 1559. Queen Elizabeth excused Tunstall from attending the upcoming parliament and her coronation ceremony, where she appointed three persons to fulfill his traditional duties.[38] While it is likely that the bishop was relieved from parliament because of his

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[32] Ibid., 50.
[33] Ibid., 38.
[34] *C.P.R.*, 1553-1554, 175.
[35] Ibid., 21.
[36] Ibid., 370.
[37] Loades, "Last Years of Cuthbert Tunstall," 20.
[38] *C.S.P. Dom*, 1547-1580, 117.

advanced age, Tunstall's subsequent deprivation resulted from his persistent obstinacy in religious matters. Tunstall opposed the Royal Visitation of his diocese in 1559, telling Cecil that, "where I understand out of my diocese of a warning for a visitation to be had there, this shall be to advertise your mastership that…if the same visitation shall proceed to such end in my diocese of Durham, as I do plainly see to be set forth here in London, as pulling down of altars, defacing of churches by taking away of the crucifixes, I cannot in my conscience I cannot consent to it…nor to have any new doctrine taught in my diocese."[39] Tunstall's continued adherence to the religious policies of Henry VIII created problems for the queen and her councillors. A symbol of conservatism in the English Church, Tunstall was a well-respected scholar at home and abroad. His acquiescence would provide the Elizabethan Settlement with an aura of respectability.[40] Tunstall arrived at Hampton Court in London for an interview with Elizabeth on 20 July 1559 in the company of sixty horsemen, and met with the queen about a fortnight later.[41] Tunstall was particularly opposed to Elizabeth permitting the laity to partake in both kinds of communion, which Henry had denied in his Act of Six Articles in 1539. His refusal to participate in the consecration of Matthew Parker as Archbishop of Canterbury on 9 September 1559 and to swear to the Oath of Supremacy on 28 September 1559 forced Elizabeth to deprive him of his see.[42] Two months later Tunstall died in the care of the Archbishop of Canterbury, and the will of the late King Henry VIII, whose religious provisions he was trying to uphold, was found among his possessions.[43] He was

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[39] Ibid., 137.
[40] Morley, "Tunstal – Trimmer or Martyr?," 351-3.
[41] D. Starkey, *Elizabeth: Apprenticeship* (London: Chatto & Windus, 2000), 301.
[42] *C.S.P. Dom*, 1547-1580, 138.
[43] Ibid., 142.

buried at Lambeth.[44] Although his deprivation left the seat of the bishopric vacant, it was based on his personal religious views, and not on a deliberate attempt by the government to reduce the palatinate's liberties.

Despite his antagonism towards the new royal religious policy, Tunstall was a valuable statesman, whose experience and diplomatic skills were utilized by the crown until his death. The bishop served on a commission to treat with the Scots in 1557.[45] On 31 December 1558, Tunstall was named as a member of the Council of the North.[46] A letter from the Privy Council on 11 January 1559 instructed Tunstall to levy 500 men of the bishopric to join the Earl of Northumberland's forces on the borders.[47] In May of that year, Tunstall was named as a commissioner, with the Earl of Northumberland, Lord Dacre and Sir James Croftes to treat with the Scottish commissioners on certain articles that had been left unresolved by the peace treaty lately concluded with the king of France.[48] Tunstall had been such a fixture in the administration of the borders that his name appears as a member of the Council of the North on a royal commission dated 10 November 1560 even though he had died the previous year.[49]

Several historians have accused Tunstall of not attempting to forbid royal encroachments on his palatine authority.[50] The bishop was in a position, as president of the Council of the North, to ensure that the crown made no intrusions on the secular privileges of the palatinate. He also managed to impede the process of religious

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[44] *C.P.R.*, 1559-1560, 28.
[45] *C.P.R.*, 1555-1557, 370.
[46] *C.S.P. For*, 1558-1559, 55.
[47] Ibid., 89-90.
[48] Ibid., 243.
[49] *C.S.P. For*, 1560-1561, 388.
[50] See, for example, Sturge, *Cuthbert Tunstal*, 256; M.E. James, *Family, lineage and civil society: a study of society, politics and mentality in the Durham region, 1500-1640* (Oxford: Clarendon Press, 1974), 42; J.C. Dewdney, *Durham County and City with Teesside* (Durham: British Association for the Advancement of Science, 1970), 214.

reformation in the diocese. He guaranteed that the sacred relic of St. Cuthbert and the items he was buried with - pictoral cross, portable altar, stole and braids, and precious fabrics - were reburied in the cathedral.[51] He also ensured that Kepier Hospital was not resumed by the crown until 1543.[52] After the *Act of Liberties and Franchises*, no challenges were made to the authority of Bishop Tunstall, who was named Lord Lieutenant of Durham in 1537 with military authority and jurisdiction over sheriffs and justices of the peace.[53] The political challenge to the bishopric was based on Tunstall's personal position towards religious reform and not on the principle of the existence of a palatinate.

Tunstall's successor, Bishop James Pilkington, also had family connections in the North. Sir John Dalton of Bisham in Lancashire married a daughter of Sir Richard Pilkington, knight, by whom he had two children, Sir Richard and Robert Pilkington.[54] James Pilkington was the third of seven sons born to Richard in Rivington, Lancashire.[55] A Charles Pilkington appears in the pedigree of the Eltoft family of Farnell in Harvey's visitation of 1552, who received the manor of Rishefurthe with all the lands and privileges pertaining to it from Henry Eltoft in 1482, however, his exact relation to James is unclear.[56] James was educated at Cambridge and during Mary's reign resided on the continent in Zurich, Geneva, Frankfurt and Basel. He returned to England on the ascension of Elizabeth and in 1559 contributed to the publication of the prayer book, the

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[51] "Introduction," *St. Cuthbert, His Cult and His Community to A.D. 1200*, eds. G. Bonner, D. Rollason and C. Stancliffe (Woodbridge: Boydell Press, 1989), xxi.
[52] Sturge, *Cuthbert Tunstal*, 261.
[53] James, *Family, Lineage and Civil Society*, 48; F. Musgrove, *The North of England: A History from Roman Times to the Present* (Oxford: Blackwell, 1990), 191.
[54] *Visitations of the North, pt. 1*, 149.
[55] D. Marcombe, "James Pilkington (1520-1576), bishop of Durham," *O.D.N.B.* (Oxford: Oxford University Press, 2004-5), http://www.oxforddnb.com/view/article/22269.
[56] *Visitations of the North, pt. 1*, 93.

Thirty-Nine Articles and the Book of Homilies. Later that year, Pilkington was nominated to the bishopric of Winchester but refused the promotion because the crown was withholding certain lands belonging to that see. He was later installed to the bishopric of Durham instead of the dean of the chapter, Robert Horne, who was appointed to Winchester.[57] By 1564, Pilkington married Alice, daughter of Sir John Kingsmill of Sigmanton, and their daughter Deborah was baptized at St. Andrew's, Auckland on 8 October 1564. Pilkington was a strong advocate of education and founded the Rivington School in Lancashire on 13 May 1566 and petitioned Elizabeth to found the Free Grammar School at Darlington in 1567. Pilkington died at fifty-five in 1576, much younger than his predecessor in the see of Durham.

Pilkington defended the rights of his see against the encroachments of the crown and the Archbishop of York. In 1559, Pilkington refused the reconstituted bishopric of Winchester because the crown was withholding a significant portion of the temporalities of the see without offering compensation.[58] Pilkington instead received the see of Durham but the crown retained £1000 worth of temporalities. All the lands were restored to Pilkington by 26 May 1566, except for Norham Castle and Norhamshire, in return for an annual payment of £880 to the crown.[59] By the time the negotiations between Pilkington and the crown ended, the newly elected bishop of Durham only surrendered an income of £750 p.a. that had been enjoyed by his predecessors.[60] The bishop-elect of

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[57] *C.S.P. Dom*, 1547-1580, 163.
[58] B. Usher, "Durham and Winchester Episcopal Estates and the Elizabethan Settlement: A Reappraisal," *J.Ec.H.* 49:3 (1998), 395-6.
[59] *C.S.P. Dom*, 1547-1580, 273.
[60] Usher, "Durham and Winchester Episcopal Estates," 399.

Durham had early become one of the leading advocates for a strong and affluent clergy, preaching at court in 1560 on the topic of "the bishops and clergy to have better living."[61]

In 1561, Pilkington refused to allow the Archbishop of York, Thomas Young, to visit the diocese, telling the archbishop's apparitor that, "If thy master will needs come to visit me bade him send me word and I will meet him in the midst of the Tees."[62] Pilkington found himself in conflict with the Exchequer over the forfeiture of lands following the Northern Rebellion of 1569, which Pilkington claimed as part of his prerogative, the rights for which the queen was only able to acquire through a parliamentary act of attainder. Pilkington's assertion of his palatine rights also brought him into conflict with the local inhabitants, particularly over the coal-producing lands in Chester-le-Street and Ripon, and the proposed reform of the diocesan hospitals.[63]

Despite the efforts of Pilkington and Elizabeth to install Protestants in the ecclesiastical offices of Durham, the majority of the diocesan clergy during the queen's reign were former monks, canons or chaplains of nunneries. There is evidence that some priests continued to administer the sacraments. In St. Giles parish in the city of Durham, the parishioners took communion in their mouths because they refused to take it in their hands, much to the dismay of their curate, Oliver Eshe.[64] Between 1559 and 1564, there were nineteen deprivations of clergy who refused the oath of supremacy in the diocese of Durham, in contrast to only five within the neighbouring diocese of Carlisle.[65] In 1567, the churchwardens of Sedgefield were brought before the diocesan court to answer to a

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[61] F. Heal, *Of Prelates and Princes: A Study of the Economic and Social Position of the Tudor Episcopate* (Cambridge: Cambridge University Press, 1980), 224.
[62] Marcombe, "Pilkington," *O.D.N.B.*; *C.S.P. For*, 1560-1561, 224-6
[63] Marcombe, "Pilkington," *O.D.N.B.*
[64] C.M. Fraser, "The Diocese of Durham in 1563," 45.
[65] N. McCord and R. Thompson, *The Northern Counties from A.D. 1000* (London: Longman, 1998), 110.

charge of removing the communion table from the parish church.[66] Pilkington's preference for Protestant theology was expressed in his dislike for the Catholic Scottish clergy who filled the benefices of the borders, calling them, "vagabonds and wicked men which hide themselves there because they dare not abide in their country and serve for little or nothing."[67] The religious state of his diocese elicited comments from Pilkington expressing his feeling of martyrdom. In a letter to William Cecil on 2 August 1561, he informed Cecil that as "he went hither as Jacob into Egypt, so he lives here still."[68] In a second letter to Cecil dated 13 October 1561, Pilkington compared his episcopate in Durham to St. Paul's fight with the beasts at Ephesus.[69]

Pilkington was less active diplomatically than had been his predecessor. In his office as bishop of Durham, Pilkington remained involved on the northern borders. Pilkington's name appears among the list of members of the Council of the North for 20 January 1561.[70] On 18 June 1562, Pilkington, the Earls of Northumberland and Cumberland, and the sheriffs and gentlemen of the palatinate and Northumberland were instructed to meet the Queen of Scots at Berwick and conduct her to the Tees.[71] Pilkington was also in charge of a muster of 100 light horsemen from the bishopric in 1568.[72]

As demonstrated in chapter 1, the other powerful ecclesiastical magnate of the bishopric was the head of the cathedral chapter. Hugh Whitehead, prior of Durham, maintained his ecclesiastical authority in the waning years of the monastery, thwarting

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[66] *Depositions and other ecclesiastical proceedings from the courts of Durham extending from 1311 to the Reign of Elizabeth*, ed. J. Raine, S.S., v. 21, (London: J.B. Nichols and Son, 1845), 118-120.
[67] Marcombe, "Pilkington," *D.N.B.*
[68] *C.S.P. For*, 1560-1561, 224.
[69] *C.S.P. Dom*, 1547-1580, 187.
[70] *C.S.P. For*, 1560-1561, 511.
[71] *C.S.P. For*, 1562, 103.
[72] *C.S.P. For*, 1566-1568, 544.

two attempts by Cromwell to appoint royal nominees to monastic offices. In December 1537, Whitehead informed Cromwell that he had received his letter promoting Sir William Riseley to the vicarage of Billingham, however, he could not comply having already granted the office to Sir Thomas Bentley. In April 1538, the prior again refused Cromwell's preferment of the royal servant Brakenbury to the use of a tract of land called Riley, the income from which was necessary to the maintenance of the monastery and had never previously been leased out.[73] On 18 February 1560, Dean Robert Horne recommended Mr. Ebden, Mr. Carvile and Mr. Horton to Cecil to fill the prebends of Durham that were left vacant by those deprived in the Royal Visitation of 1559.[74] The Cathedral of Durham also possessed the cure of Berwick, which was in need of a minister in 1560. Horne recommended that Sanderson, a native of Northumberland studying at Cambridge, fill the position. He also recommended Adam Halyday for the last vacant prebendal stall of the cathedral chapter.[75]

As a leading ecclesiastical figure in the north, the prior of Durham was involved in the administration of justice in the region. The prior was frequently appointed to the commission of the peace for the county of Northumberland, appearing on the list of commissioners in 1525, 1531, 1532 and 1536.[76] On 11 March 1528, Whitehead was named to the commission of the peace for the county of Cumberland.[77] Dean Whitehead, Robert Hyndemar and Robert Meynell were commissioned to make an inquiry *post mortem* into the lands of George Smyth in the county of Cumberland in 1545.[78] On 20

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[73] D. Hay, "Dissolution of Monasteries in Durham," 96-7.
[74] *C.S.P. For*, 1559-1560, 384.
[75] *C.S.P. For*, 1560-1561, 388-9.
[76] *L.P.*, 1524-1526, 721; *L.P.*, 1531-1532, 37, 704; *L.P.*, Jul-Dec 1536, 564.
[77] *L.P.*, Jan-Jul 1538, 243.
[78] *L.P.*, 1545, 451.

January 1561, William Whittingham, dean of the chapter of Durham, was appointed to the Council of the North.[79] In 1562, the queen's commission to the Council of the North omitted the dean of Durham and the president, the earl of Rutland, desired that a new one be made.[80] In September 1569, Whittingham was one of several men named to a commission to meet the justices of assize at Carlisle and to proceed by virtue of a commission of oyer and terminer against those accused of rioting in the forest of Westward in the county of Cumberland.[81] Several months later, he was named as a commissioner of the peace for Cumberland and Yorkshire.[82] The prior and dean Durham were also active on the borders with Scotland. On 31 October 1528, Whitehead was appointed to the commission to treat with the Scots for peace and for the redress of grievances.[83]

Like Pilkington, Robert Horne was a committed protestant. A rare northern protestant born in Cumberland, Horne was appointed to the deanery of the Cathedral Chapter of Durham on 18 November 1551 in view "of his erudition and rarity of good ministers in the north."[84] It is alleged that Horne had the tomb of St. Cuthbert pulled down, some stained glass windows illustrating the miracles of the saint smashed, and broke the Corpus Christi shrine in the St. Nicholas parish church.[85] Horne, however, found favour neither with the Edwardian Council nor with Mary's government. When Northumberland desired to appoint a new bishop to the see of Durham after depriving Tunstall, the duke told Cecil that, "he does not think it expedient 'this pevishe dean'

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[79] *C.S.P. For*, 1560-1561, 511.
[80] *C.S.P. For*, 1561-1562, 38.
[81] *C.S.P. Dom*, Addenda, 1566-1579, 83.
[82] *C.P.R.*, 1569-1572, 223.
[83] *L.P.*, 1526-1528, 2117.
[84] *C.P.R.*, 1551, 110.
[85] R. Houlbrooke, "Horne, Robert (1513x15-1579), bishop of Winchester," *O.D.N.B.* (Oxford: Oxford University Press, 2004-5), http://www.oxforddnb.com/view/article/13792.

[Horne] should have the appointment."[86] Learning that he was excepted from Mary's pardon and convicted before the Privy Council of heresy and ignoring a summons to appear, Horne decided to flee to the continent. On Elizabeth's accession, he returned to England where he was appointed as one of the nine men to debate three theological questions with the Catholic churchmen at Westminster Abbey. He received his official pardon in October and was restored to the deanery in Durham. His service in Durham ended with his appointment to the bishopric of Winchester in 1560, where he continued to be active in combating superstitious beliefs.

Despite the infringement of the crown on the palatinate's liberties during these years through the reduction of the bishop's patronage caused by the dissolution of the monastery, the collegiate churches and the Act of Exchange, both Tunstall and Pilkington were staunch defenders of their palatine privileges. On his translation, Tunstall had within his patronage, both the archdeaconries of Durham and Northumberland, four deaconries, five hospital masters, seventeen rectories, twelve vicarages and the prebends of the collegiate churches of Darlington, Auckland, Chester-le-Street, Lanchester and Norton in the diocese. In 1532, Tunstall exercised his patronage of Norham Castle by appointing Sir William Eure to the constableship.[87] Tunstall did not have patronage of the prebends of the Chapter of Durham subsequent to the dissolution of the monastery, but he won the right from Mary in 1555, and in 1557, the bishop recommended to the queen the appointment of his chancellor, Robert Hyndemar, to the deanery demonstrating his continued ability to influence the appointments to the office.[88]

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[86] *C.S.P. Dom*, 1547-1580, 47.
[87] *L.P.*, 1531-1532, 466.
[88] *C.S.P. Dom*, Addenda, 1547-1565, 456-7.

Of the seventy-seven offices that Tunstall had in his patronage upon his accession in 1530, Pilkington presented to sixteen of them between 1561 and 1569, and acquired an additional nine offices through a lapse of patronage by the original patron during this period. Pilkington actively used the patronage at his disposal to install men with Protestant beliefs, and his own relatives. He appointed his brother, John, to a canonry and the second prebend in the chapter at Durham in 1561, and further promoted him in 1563 to the archdeaconry of Durham and the rectory of Easington.[89] Bishop Pilkington also advanced a Laurence Pilkington, possibly his brother, to the vicarage of Norham in 1565 and to the rectory of Kimblesworth in 1572.[90] Through lapses of patronage, the bishop obtained the right of patron to the vicarages of Pittington and of Berwick, from the failure of the dean and chapter to exercise their right of patronage, and the vicarage of Gainford, which once belonged to the master, fellows and scholars of Trinity College, Cambridge, as well as many others.[91] The bishop also retained the right of patron of Sherburn Hospital, the largest hospital in the region.

Several notable offices passed to the patronage of the queen, including the appointment of the masters of the Hospital of the Blessed Mary Magdalene and the Hospital of the Blessed Virgin Mary, also known as West Spittle, both near Newcastle. Before 1569, the queen appointed to two rectories, Ford and Simonburn, neither of which

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[89] *Registers of Tunstall and Pilkington*, 143, 145.

[90] *Registers of Tunstall and Pilkington*, 164, 171. According to the Oxford Dictionary of National Biography, James had six brothers, of which only the career of one of his younger brothers, Leonard, is known. Leonard was named master of St. John's College at Cambridge University in 1561. He was collated to a prebend stall in Durham Cathedral in 1567 which he held until his death in 1599. Greaves, R.L., "Pilkington, Leonard (1527-1599), church of England clergyman," *O.D.N.B.* (Oxford: Oxford University Press, 2004-5), http://www.oxforddnb.com/view/article/22271. James also had a nephew Richard Pilkington who was born in Lancashire. Richard was ordained in 1595 and was later instituted as archdeacon of the diocese of Carlisle, a position which he held until his death in 1631. Wright, Steven, "Pilkington, Richard, (*d.* 1631)," *O.D.N.B.*, http://www.oxforddnb.com/view/article/22278. It is therefore quite possible that Laurence Pilkington was a relative of James.

[91] *Registers of Tunstall and Pilkington*, 144-8.

had been in the possession of the bishop at the time of Tunstall's translation. Most importantly, the queen retained the patronage rights to the deanery of the Chapter of Durham, which she exercised in the appointment of the protestant William Whittingham to the office on 19 July 1563.[92] Although significant offices passed to the patronage of the queen, the bishop retained the majority of rectory and vicarage appointments which had the most direct influence on the palatinate's inhabitants.

The temporal chancellor was one of the most important secular officials of the palatinate in the later medieval and early modern eras. The earliest known chancellor to have sat in Durham was Walter de Merton in 1242.[93] By the fifteenth century, it is evident that the chancellor was in charge of the bishop's great seal and had the authority to seal and issue writs and other documents. The chancellor essentially constituted the font of justice in the palatinate by issuing all judicial writs and authorizing the arrest and imprisonment of persons. He acquired authority to confer judgment in chancery cases from the bishop's council in the fifteenth century. The administrative duties of the chancellor were voluminous, as he was responsible for issuing patents for appointments to offices, managing the bishop's property within the palatinate and frequently holding a financial office.[94]

In the sixteenth century, William Frankeleyn was the most active chancellor of Durham. He was appointed to the post by Bishop Thomas Ruthall in 1514, and he served in it until he resigned shortly after Mary's ascension to the throne in 1553. From 1515, Frankeleyn held the chancellorship in conjunction with the archdeaconry of Durham and he was installed to the deanery of Windsor on 19 December 1536. Although it may

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[92] Ibid., 145, 148.
[93] G.T. Lapsley, *The County Palatine of Durham* (Cambridge, MA: Harvard University Press, 1901), 95.
[94] Ibid., 96-7.

appear from his resignation under Mary that Frankeleyn held protestant sympathies, his burial in the churchyard of St. Giles was challenged several years after his death in January 1556 because his will included provisions for catholic devotional practices.[95]

During his time as chancellor and archdeacon of Durham, Frankeleyn was involved in the administration of the diocese and in the defense of the borders. Under the episcopate of Wolsey, Frankeleyn was active in devising plans to increase the revenue of the bishopric, particularly by exploiting the region's natural resources, and was active in having the palatinate's privileges confirmed by parliament. In 1523, he informed the bishop that he had secured the royalty of "25 score kele of coal" found at Wickham near Newcastle, the bishop's prerogative to which Frankeleyn confirmed in the diocesan archives.[96] The chancellor also confirmed the bishop's right to appoint to the office of abbess of St. Bartholomew's in Newcastle that had fallen vacant in July 1523 after the death of dame Joan Baxter. A rival claim was made by the abbot of Fountains, who installed dame Agnes Lawson to the office, in accordance with the procedure of his predecessor. Precedents for the bishop's claim were found in the registers at Durham and the abbot of Fountains conceded the right of election to the Durham prelate.[97] In 1525, he was named as a member of the Council of the North by Henry Fitzroy, duke of Richmond, the illegitimate son of Henry VIII who was made president of the council. In 1535, Frankeleyn was a part of the council's commission for executing the king's

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[95] Knighton, C.S. "Franklyn, William (1480/81-1556), dean of Windsor," *O.D.N.B.* (Oxford: Oxford University Press, 2004-5), http://www.oxforddnb.com/view/article/10092.
[96] *L.P.*, 1522-1523, 1241.
[97] Ibid., 1261, 1329.

commission for assessing and taxing spiritual promotions and for collecting tenths of spiritualities in the bishopric.[98]

The chancellor was involved in other judicial duties, both within the palatinate and in the surrounding counties. Frankeleyn was responsible for arranging the Durham sessions of assize. On 25 June 1518, Frankeleyn informed Bishop Ruthall that he expected to have 1,000 bills ready for the next coming of the justices. He advised Ruthall to add Lords Darcy and Conyers to the king's justices to enquire into the despoils caused by the raiding of the men of Tynedale and Redesdale.[99] He was at Hexham in October 1525, where he took pledges for the men of Tynedale. Later that month, he was at Pontefract for the sessions of oyer and terminer.[100] Frankeleyn appears on various commissions of the peace for the northern counties throughout the 1520s. On 11 August 1525, he was included on the commissions of the peace for Cumberland, Westmorland, and the West Riding, Yorkshire.[101] He was named as a commissioner of the peace for the West Riding in 1528 and for the East Riding in January 1529.[102] Frankeleyn served with Sir William Eure, Sir Thomas Tempest and Robert Bowes for Henry, earl of Northumberland, on the borders for the reformation of justice in 1528.[103] In December of that year, the chancellor is listed as a member of the "household with the warden," earning a commission of £40.[104] In 1556, Frankeleyn's successor, Robert Hyndemar, served on the commission for the East Borders with Lord Wharton and the following year

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[98] *L.P.*, Jan-Jul 1535, 261, 51.
[99] *L.P.*, 1518, 1319-1320.
[100] *L.P.*, 1524-1526, 752.
[101] Ibid., 721.
[102] *L.P.*, 1529-1530, 2312; *L.P.*, 1526-1528, 2216.
[103] *L.P.*, 1526-1528, 1690.
[104] Ibid., 2218.

served at Carlisle, which, according to Tunstall, he did of his own volition without accepting any promotion.[105]

Frankeleyn was used frequently on diplomatic missions into Scotland. He was appointed to the commission to treat for peace with the Scots in 1528, and witnessed the signing of the peace treaty at Holyrood on 31 July 1534.[106] In 1531, Frankeleyn was absent from the diocese on a commission to Scotland.[107] Frankeleyn's military duties included taking charge of the musters of men in the bishopric for the war with Scotland. He was in charge of musters in the bishopric in April 1523.[108] Frankeleyn and Sir William Bulmer, palatine sheriff, created commissions in Wolsey's name in accordance with the king's commissions for mustering men of Durham for defense against the Scots and appointed commissioners in 1524. In his letter dated 21 Mar 1524, Frankeleyn informed the absent prelate that he had appointed to the next commission of the peace those who had previously held the office of justice.[109] In 1542, together with the earl of Westmorland and Sir George Conyers, Frankeleyn mustered 500 men of the palatinate for the defense of the borders against Scottish raids.[110]

Like the episcopal officers of the palatinate, the chancellor was also in a position to act as a patron for those seeking preferment. Frankeleyn heard in 1527 that Bishop Wolsey was intending to transfer the Prior of Tynemouth to the Abbey of Peterborough and requested that Peter Lee, a canon of the monastery at Durham, be elevated to the vacant priory.[111] Frankeleyn sought patronage from Cromwell to assist William

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[105] *C.S.P. Dom*, Addenda, 1547-1580, 456-7.
[106] *L.P.*, 1526-1528, 2117; *L.P.*, 1534, 333.
[107] *L.P.*, 1531-1532, 146.
[108] *L.P.*, 1521-1523, 1235.
[109] *L.P.*, 1524-1526, 68.
[110] *L.P.*, 1542, 387.
[111] *L.P.*, 1526-1528, 1574.

Wytheman in obtaining a patent for the bailiwick of Darlington from Wolsey on 6 April 1529.[112] Frankeleyn himself was also the beneficiary of royal patronage. In March 1532, Frankeleyn thanked Cromwell for his intervention on his behalf with the bishop of Lincoln for an unspecified preferment. As his suit was not successful, the chancellor chose to enter residence at York Cathedral and asked Cromwell to excuse him from any upcoming royal commissions in which he may be included. Finally, he asked Cromwell to intercede on his behalf against Thomas Magnus who held a portion of the land that rightfully belonged to him as a prebendary of York.[113]

Between Tunstall's deprivation in 1559 and the nomination and election of Bishop Pilkington in 1561, the crown administered the bishopric *sede vacante*. There was a longstanding tradition that the crown would resume the liberties of the diocese when the seat of the bishopric fell vacant for the duration of the vacancy. During this period, the crown replaced the bishop as the head of the palatinate. The bishopric and its temporalities were placed in the custody of Robert Tempest to administer during the queen's pleasure as a gift of her majesty in February 1560.[114]

The spiritualities of Durham were under the jurisdiction of the archbishop of York. The prelate traditionally appointed an official from the diocese of York to act as a vicar-general in spirituals for the vacant bishopric. The prior of the monastery at Durham was occasionally appointed as the sole vicar-general or in conjunction with other ecclesiastical officers.[115] Among the four vicars-general appointed during the vacancy of the see from 1560 to 1561 was Bernard Gilpin, archdeacon of Durham, rector of

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[112] *L.P.*, 1529-1530, 2390.
[113] *L.P.*, 1531-1532, 407.
[114] *C.P.R.*, 1558-1560, 340.
[115] *Register of Thomas Rotherham, Archbishop of York 1480-1500*, v. 1, ed. E.E. Barker, C.Y.S., v. 69 (Torquay: Devonshire Press, 1974), 179.

Easington, and the great nephew of Cuthbert Tunstall.[116] Officials possessed the authority over all the *acta* and rolls under the jurisdiction of the bishop's spiritual chancellor and to take oaths of obedience from the prior and monastery and the inhabitants of the diocese, hold synods and correct abuses.[117]

The administration of Durham while the bishopric was *sede vacante* resulted from the work both of royal officers and of those of the palatinate. On 16 February 1560 the Duke of Norfolk, Lord President of the Council of the North, wrote Cecil inquiring if the queen had chosen to make Robert Tempest, sheriff of the late bishop, her serjeant-at-law for the bishopric. Norfolk said that he must stay the oyer and terminer proceedings until a serjeant was appointed and also requested that a commission be issued to the Dean of the Chapter of Durham to try spiritual cases.[118] On 11 March 1560, Robert Meynell, chancellor of Durham, and Michael Wandiford, steward of the county palatine, informed the Marquis of Winchester, Privy Councillor and Lord Treasurer, that the queen authorized them to continue the exercise of their offices as they had in the time of the late bishop.[119] They requested that Robert Tempest be appointed to the office of sheriff. These officials inquired as to what seal they should use for the sealing of writs and other records, and sent the marquis a wax impression of the seal formerly used. The great seal was in the possession of the executors of the late bishop and they wished to acquire the authority to use it by a warrant from the queen. They had also recently received a

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[116] Forster, "Bishop Tunstall's priests," 190.
[117] *Register of William Melton, Archbishop of York, 1317-1340*, v. 1, ed. R. Hill, C.Y.S., v. 143 (Torquay: Devonshire Press, 1975), 96.
[118] *C.S.P. For*, 1559-1560, 379.
[119] A Robert Meynell earlier appears as a Justice of Assize and it highly probable that the two are the same person. Meynell was most likely a gentleman of the region who had legal training, which was not unusual. He becomes chancellor of the bishopric some time after Robert Hyndemar, who we last have evidence of holding the post in 1556, and his appearance as the holder of the office in this letter dated 1560. In a letter to Cardinal Pole dated 16 August 1558, Tunstall informs his friend that his chancellor had died. *C.S.P. Dom*, 1547-1580, 105. This is most likely when Meynell received the post.

commission of the peace that excluded William Claxton, Richard Hebburn, John Swinburn and William Brackenbury, but included Robert and John Conyers who were unknown in the palatinate. The officers also informed the marquis that it was traditionally the time when the gaols were emptied and that they required a commission for the delivery of the prisoners. The names of the commissioners to be appointed were kept in the chancery whence the commissions of gaol delivery were issued.[120]

Meynell and Wandiford wrote again to the marquis on 17 June 1560 that it was the queen's pleasure to preserve the jurisdiction of the county palatine and that all the officers will have their rooms and use of the seal, that the Master of Wards will have order of all wards and liveries, and that all writs for inquiries and commissions would pass under the seal of the said franchise. The two officers desired a warrant from the queen for the making of letters patent for offices and preferments. They also requested the renewal of the enclosed letters patent and for a commission for justices of assize in oyer and terminer and gaol delivery before the sitting of the next assize.[121] From these letters it is apparent what privileges the palatinate was able to retain as late as 1560. There was a chancery that issued writs under the great seal of the palatinate including commissions of the peace. The bishop had the right of wardship and held sessions of the peace by royal letters patent.

The crown possessed the right to appoint to ecclesiastical offices that normally belonged to the prerogative of the bishop while the seat of the diocese was vacant. On 29 April 1560, the queen presented Thomas Horton to a prebend in Durham Cathedral made

[120] *C.S.P. For*, 1559-1560, 444-5.
[121] *C.S.P. For*, 1560-1561, 126-7.

vacant by the deprivation of Nicholas Marley.[122] Several days later, the queen presented Adam Sheppard to another prebend in the cathedral chapter made vacant by the deprivation of John Tutting.[123] During the period in which the bishopric was *sede vacante*, the officers of Durham exercised a measurable degree of control over its administration, and were responsible for the continuance of many traditional practices of the palatinate, thus minimizing the influence of the administration by the crown and outsiders.

The dissolution of the bishopric of Durham and the imprisonment of Tunstall during the reign of Edward VI left no mark on the records at Durham. The bishop's register indicates no break between 1552 and 1554 in which the diocese had no legal status. During this period, presentments to ecclesiastical offices continued to be performed both by the dean and chapter and by private persons.[124] There is no sign that the king's council appropriated the right to make appointments to ecclesiastical offices in the diocese during that time. No interruption appears either in the accounts kept by the bishop's temporal chancellor, Robert Hyndemar, who continued to collect the usual rents and fees.[125] The record of Cuthbert Conyers, sheriff of Durham and of the wapentake of Sadberge, accounts for the year 1552 to 1553 as "from the feast of St. Michael the Archangel in the twenty-third year of the Pontificate of Cuthbert, by the grace of God Bishop of Durham, to the feast of St. Michael in the twenty-fourth year of the same pontificate."[126]

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[122] *C.P.R.*, 1558-1560, 252.
[123] Ibid., 252.
[124] *Registers of Tunstall and Pilkington*, 101-03.
[125] Loades, "Last Years of Cuthbert Tunstall," 15.
[126] D.M. Loades, "The Dissolution of the Diocese of Durham, 1553-54," in *The Last Principality: politics, religion and society in the bishopric of Durham, 1494-1660*, ed. D. Marcombe (Nottingham: University of Nottingham Press, 1987), 101.

Tunstall and Pilkington represent the old and new religious orders in the sixteenth-century reformation. Tunstall, from a Lancashire family, was a reluctant supporter of the Henrician Reformation of the 1530s and openly objected to the introduction of protestant doctrine in church ceremonies. He refused to conform to the religious policies of Edward's council and his opposition brought about his deprivation and the dissolution of the see. Restored by the catholic Queen Mary, Tunstall refused to adhere to the religious policies of Elizabeth, and his defense of the traditional religious practices in Durham ended with his deprivation. Pilkington, his successor, also with northern connections, represented the new generation of bishops. An advocate of protestant theology, Pilkington married and had a family, and promoted the Elizabethan Religious Settlement in the diocese through the installation of protestant officers. Strong believers in their respective faiths, these ecclesiastical magnates shared a desire to defend the privileges of the county palatine of Durham against the potential encroachments of the crown and the ecclesiastical hierarchy. The majority of threats made to the legal status of the palatinate resulted from the personal relations between the bishop and the monarch. The continuance of effective management of the palatinate required that the leading ecclesiastical and secular officers were knowledgeable administrators and strong personalities. This was particularly important in the field of judicial competency, as we will see in the following chapter. Together, these officials worked with the crown to ensure the successful governance of the northern palatinate during this transitional period in the country's religious and political trajectory.

Chapter 4: The administration of justice in Durham in the mid-sixteenth century

The administration of justice in Durham in the mid-sixteenth century was the result of continual compromise between the crown, the bishop and his temporal officials. If, as Scammel and Thornton tell us, that, "the ability to hear civil pleas, and in what circumstances, is the true test of a liberty," and that "sovereignty was closely allied to the role of supreme arbiter in conflicts" in the fifteenth and sixteenth centuries, then the status and functions of the Durham courts serve as an indicator of the political status of the palatinate and its relation with the kingdom as a whole.[1] The *Act of Liberties and Franchises* proposed judicial reforms in the palatinate, in which the crown theoretically resumed the judicial jurisdiction of the bishop. In practice, the Durham courts retained their authority during this period. The bishops were active in maintaining the peace in their diocese by keeping ecclesiastical courts, appointing justices and issuing and acting on commissions of the peace. The Durham courts, which never functioned completely independently from the crown since the Norman Conquest, became even more intertwined with the kingdom's justice system in the mid-sixteenth century. In many ways, Durham was typical of the sixteenth-century English county. The palatinate entertained sessions of assize, gaol delivery and quarter sessions. The increasing control by the crown through the Council of the North and the Privy Council in the reign of Elizabeth was also felt to a certain extent in Durham. The main difference remained that the local institutions were led by a member of the church.

The task for assessing the degree to which the judicial privileges of the palatinate were affected by the Act of 1536 is made more difficult by the absence of palatine

[1] J. Scammel, "The Origin and Limitations of the Liberty of Durham," *E.H.R.*, 81:320 (1966), 449; T. Thornton, "Fifteenth-Century Durham and the Problem of Provincial Liberties in England and the Wider Territories of the English Crown," *Trans. R.H.S.*, 6th Ser., 11 (2001), 186.

judicial records for the late sixteenth and seventeenth centuries. No Durham quarter sessions records are extant for the years between 18 February 1512 and 4 August 1545, and 22 May 1546 and 22 June 1555.[2] Many of the early Chancery records disappeared during the episcopate of Wolsey, and the court's records for the seventeenth century are equally fragmented.[3] There are no extant records for criminal proceedings from the seventeenth century of any palatine judicial body.[4] There is also a paucity of crown sources in this period. There are no records of depositions for the northern circuit assizes until 1640.

A review of the various articles of the *Act of Liberties and Franchises* of 1536 reveals that the palatine status of Durham was not as radically altered at this time as many historians have supposed. Lapsley believed that, "less consideration, however, was exhibited under the rigorous administration of the Tudors when the privileges of the palatinate were largely curtailed," and, "the Bishop was deprived of his dignity and all temporal jurisdiction, and the organization of the palatinate was reduced to two local courts."[5] A century earlier, Surtees believed that, faced with the *Act of Liberties and Franchises*, "Bishop Tunstall bowed to the storm in silence."[6] Modern historians of Tudor England have by and large echoed these sentiments. Penry Williams declared that the power of the bishop was weak during the late medieval period, that "the bishop was

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[2] *Durham Quarter Sessions Rolls 1471-1625*, ed. C.M. Fraser, S.S., v. 199 (Newcastle: Athenaeum, 1991), *passim*.
[3] G.T. Lapsley, *The County Palatine of Durham* (Cambridge, MA: Harvard University Press, 1901), 189; W.J. Jones, "Palatine performance in the seventeenth century," in *The English Commonwealth 1547-1640: essays in politics and society presented to Joel Hurstfield*, eds. P. Clark, A.G.R. Smith, N. Tyacke (Leicester: Leicester University Press, 1979), 192.
[4] K. Emsley and C.M. Fraser, *The Courts of the County Palatine from the Earliest Times to 1971* (Durham: Durham County Local History Society, 1984), 34.
[5] Lapsley, *County Palatine*, 2.
[6] R. Surtees, G. Taylor and J. Raine, *The History and Antiquities of the County Palatinate of Durham*, v. 1; (London: J.B. Nichols and Son, 1816-40), lxix.

less a threat to the monarchy than a useful adjunct to royal power, and the political balance was not much altered by the abolition of palatinate jurisdiction in 1536."[7] Like Williams who believed that the *Act of Liberties and Franchises* signalled the complete end of palatine jurisdiction, the great Tudor historian G.R. Elton contended that, "the act of 1536 in particular ended the independence of the county of Durham which alone of all the great palatinates had escaped absorption into the Tudor crown lands."[8]

More recent historiography, however, suggests that the palatine courts continued to exercise judicial authority beyond the *Act of Liberties and Franchises*. In 1987, C.J. Kitching and D.M. Loades asserted that the Act of 1536 made "no attempt to suppress the existing Palatine courts," nor did the act, "do away with the Palatinate."[9] This argument was adopted by John Guy in his survey of Tudor history published the following year, "some jurisdictional anomalies persisted in England despite Cromwell's attack on franchises and liberties in the 1530s…the palatinates of Durham, Chester and Lancaster retained their special courts."[10] Yet, the notion that Durham retained its temporal jurisdiction has not been widely adopted by historians. This chapter seeks to elaborate and develop the approach of this new research. In light of the close association between the ability to arbitrate independently in disputes and early modern notions of sovereignty, I maintain that the palatinate remained a semi-autonomous political entity because of the continuance of its courts, and that it was not seriously threatened in this independence by the Act of 1536.

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[7] P. Williams, *The Tudor Regime* (Oxford: Clarendon Press, 1979), 447.
[8] G.R. Elton, *England under the Tudors* (London: Methuen, 1955), 176.
[9] C.J. Kitching, "The Palatinate and the Courts of Westminster," 50, and D. Loades, "Introduction," 3, in *The Last Principality: religion, politics and society in the Bishopric of Durham, 1494-1660*, ed. D. Marcombe (Nottingham: University of Nottingham Press, 1987).
[10] J. Guy, *Tudor England* (Oxford: Oxford University Press, 1988), 355-6.

The Act of 1536 addressed several main areas in the administration of justice in the county palatines: the issuance of royal writs, the authority to create justices of the peace, the supervision of sheriffs, and the right to pardon. Article three declared that, "all original writs and judicial writs, and all manner of indictments of treason, felony or trespass, and all manner of process...be made only in the name of our said Sovereign Lord the King." But the introduction of original royal writs into the palatinate was not novel in the sixteenth century. Writs from the crown had been very much a part of the Durham legal system as far back as the thirteenth century. In 1204, these writs were necessary to initiate judicial proceedings involving a land action in the bishop's courts.[11] The royal charter of 1208 that granted that the men of the franchise were not to be impleaded of their free holdings except according to the laws of the kingdom, and the procurement of the right to hold royal assizes by the knights of the bishopric from King John in 1211 represent denials of the validity of the bishop's original writ.[12] Similarly, the commission to hold Durham Assizes could only be obtained from the northern circuit justices when they were traveling in the region, which became infrequent after the commencement of the Anglo-Scottish War in 1296. This hindered not only the bishop of Durham's ability to obtain some writs, but also his ability to prosecute felonies.

The bishop was forced to obey writs issued from Westminster as a feudal magnate of the crown, a circumstance that existed in the later Middle Ages. A writ of the royal exchequer issued on 23 November 1304 demanded the payment of Bishop Bek's debts to the king. On 1 May 1434, a royal writ was dispatched to Bishop Langley instructing that he and three others take the oaths of knights, esquires, and the mayors and bailiffs of the

[11] Scammel, "Origin and Limitations of Durham, 460.
[12] Ibid., 459-60.

towns of Northumberland that they will not maintain "evil-doers."[13] The sheriff of the palatinate was included in a commission of 1532 issued to all the county sheriffs instructing them to cause the proclamation to be read for the enforcement of a statute of Richard II against the exportation of bullion.[14] The following year, Sir Thomas Hylton was responsible for carrying out a royal commission instructing for all persons having lands of a yearly value of £40 to take knighthood and to have their names certified in chancery.[15] Royal writs had always been an important component of the palatine legal system in the later Middle Ages. Thus, the Act of 1536 did not decrease the bishop's jurisdiction in this area, since there was nothing to diminish.

Legislation dealing with the appointment and powers of the justices of the peace did not introduce new procedures into Durham. Article two, which awarded the king sole authority to create justices of the peace in the kingdom's palatinates, was never implemented in Durham. The bishop retained the authority to nominate justices until the temporalities of the palatinate were separated from the bishopric in 1836.[16] The ability to appoint justices of the peace was a crucial right whose importance continued to grow over the sixteenth century as the duties and responsibilities of the justices developed.[17] By the late sixteenth century, the justices were the key figures in county administration. By retaining his control over these offices, the bishop held an increasing amount of political authority in the palatinate.

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[13] *The Register of Thomas Langley, bishop of Durham, 1406-37*, v. 4, ed. R.L. Storey, S.S., v. 170 (Durham: Andrews, 1961), 136.
[14] *L.P.*, 1532, 176-7.
[15] *L.P.*, 1533, 483.
[16] Emsley and Fraser, *Courts of the County Palatine*, 46.
[17] A.G.R. Smith, *The Emergence of the Nation State: the commonwealth of England 1529-1660* (London: Longman, 1984), 135.

Article six also addressed the justices of the peace. It required that, "all stewards, bailiffs and other ministers of any liberties or franchises, which in time past have used or ought to attend upon the justices of assize, justices of gaol delivery and justice of peace at large in any county, shall be attendant to [them] wherein such liberties and franchises be." At Durham, the traditional practice called for the bishop's officers to meet the royal justices itinerant at the boundary of the palatinate, where the officers received the "articles of eyre" and leave from the royal justices to issue a similar commission in the bishopric.[18] The *Quo Warranto* proceedings of Edward I at the Northumberland Eyre in 1278 and 1279 confirmed the franchise's right to the practice where, "the bishop of Durham was accustomed to meet by his bailiffs the royal justices itinerant on their entry of the county at Chylewell or Fourstones or Quakendebrigge, according to their approach, and later came before them at Newcastle on the first day of eyre. At both these meetings the bailiffs sought the justices' articles of pleas of the Crown, and had done from time immemorial."[19]

Article fourteen ascribed to the palatine justices the same powers as the county justices in the rest of the kingdom. The justices of Durham had enjoyed rights equal to those of the rest of the kingdom for many centuries. This was not a limitation. In fact, it posed a great hindrance to the bishop and the palatinate's inhabitants if he was unable to provide them with equal judicial recourse. In 1308, Edward I granted Bishop Bek the right to empanel jurors and proceed by inquest after the manner of the royal assizes,

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[18] Ibid., 173.
[19] *Records of Antony Bek, Bishop and Patriarch 1283-1311*, ed. C.M. Fraser (Durham: Andrews, 1953), 38; *Three Early Assize Rolls of Northumberland*, ed. William Page, S.S., v. 88, (Durham: Andrews & Co., 1891), preface, xi.

where English common law was applied.[20] The judicial bench in Durham was comprised of the temporal chancellor and one or two royal justices of assize, a policy that ensured that the palatine judiciary offered judicial recourse equal to the rest of the country.[21] Royal lawyers, those with established careers at the courts of Westminster, were used throughout the later Middle Ages to meet the national standard.[22]

Several articles addressed the jurisdictional relationship between the crown and the county palatine. Article nine permitted "purveyors, assigned by the king's commission for provisions of his grace the Queen and their children, shall and may provide all vitals and other kinds of things whatsoever it be according to their commissions as well within liberties and franchises as without." A royal *post mortem* inquest was performed in Durham in 1534. The crown issued a commission on 18 November 1534 to Sir William Evers, Sir George Conyers and William Conyers to make an inquisition on the lands and heirs of one John, in the palatinate.[23] This article permitted the crown's commissioners to act within the palatinate, however, as indicated by the above example, royal commissioners were already conducting inquisitions in Durham.

Article ten legislated that,

> in all such places where so ever the King's Highness in his own most royal person shall come to rest, tarry, abide or make his repose within this realm or any his dominions within the liberty or without...during the time of his abode his grace, his steward, marshall, coroner and all other his ministers shall and may keep their courts for justices and exercise their offices[24]

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[20] C.M. Fraser, *A history of Antony Bek, bishop of Durham, 1283-1311* (Oxford: Clarendon Press, 1957), 82; M.E. James, *Family, Lineage, and Civil Society: a study of society, politics and mentality in the Durham region, 1500-1640* (Oxford: Clarendon Press, 1974), 41.
[21] Emsley and Fraser, *Courts of County Palatine*, 32.
[22] Ibid., 30.
[23] *L.P.*, 1534, 559.
[24] 27 Henry VIII c. 24.

The beginning of the Anglo-Scottish War in 1296 frequently brought the king and his retinue to the north, particularly to the towns of Newcastle, Berwick and Durham where the king and his justices would hear complaints. On the king's return from Scotland in 1304, the commonalty of Durham presented offences committed by the bishop and his men before the king's justices at Durham. The case was prorogued to the sitting of the king's council several weeks later at York, which provided Edward I and his council an opportunity to deliberate on the matter. After a long altercation before the justices at York on 20 October 1304, it was agreed that two of the king's justices would return to Durham the following February to hear and determine the case according to the laws of the franchise.[25]

There were other instances when the royal prerogative superseded that of the bishop. As early as the twelfth century, Henry II had issued a writ that allowed him to intervene in times when there had been a default of justice in the palatinate.[26] If the king were party to a case that would normally only appear before the palatine justices, the bishop could either renounce cognizance of the case or force the king to plead in his court, an action that was never successful.[27] Edward II, who restored the liberties of the palatinate to Bishop Bek in 1308, reserved cognizance of a plea of trespass involving Guy de Beauchamp and the bishop and his men.[28] Edward II issued further writs instructing the bishop regarding the administration of justice in the palatinate. First, he ordered Bek to show justice to John, son of John of Durham, in a case of trespass against

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[25] *Records of Antony Bek*, 101-2.
[26] G.V. Scammell, *Hugh du Puiset, bishop of Durham* (Cambridge: Cambridge University Press, 1956), 191.
[27] Lapsley, *County Palatine*, 215.
[28] *Records of Antony Bek*, 125.

Richard Stanlawe on 3 June 1308, and again, on 12 July 1310, to do justice to Alan de Tesdale, who had been misused by the bishop's officers.[29]

Residents of the liberties were assured of their right from being compelled to answer in a court outside their liberty by the Act of 1536. The extradition agreement reached between Richard I and Bishop Puiset in 1194 guaranteed that residents were tried by the appropriate judicial bodies and that criminals did not take advantage of the immunity of the palatinate, as did the agreement that persons outlawed in England were arrested upon setting foot in Durham.[30]

The monarch acquired the exclusive authority of appeal and pardon as legislated in the *Act of Liberties and Franchises*. On 4 October 1543, Henry VIII pardoned John Marbecke for his offence of the late statute against heretics, for which he had been indicted before the temporal chancellor of Durham and others.[31] On 11 July 1559, Elizabeth pardoned Griffith ap Rice of North Auckland who had been indicted at the sessions of the peace in Durham for murder on 6 November 1558.[32] On 13 September 1568, Lord Hunsdon wrote to William Cecil requesting the queen's favour and mercy for Ralph Swynhouse of Cornwall who had been detained for two years in the prison at Durham for murder.[33] Previously, the bishop had possessed the authority to pardon, but could be overruled by the crown.

The *Act of Liberties and Franchises* had a narrow scope, prescribing that only the judicial rights of the franchises were to be resumed by the crown; it thus did not infringe

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[29] Ibid., 167-8.
[30] Scammel, "Origins and Limitations of Durham," 455; C.J. Neville, "The Courts of the Prior and the Bishop of Durham in the Later Middle Ages," *History* 85 (2000), 217; C.M. Fraser, "Prerogative and the Bishops of Durham, 1267-1376," *E.H.R.* 74: 292 (1959), 472-3.
[31] *L.P.*, 1543, 184.
[32] *C.P.R.*, 1559-1560, 113.
[33] *C.S.P. For*, 1566-1568, 547.

on the ability of the bishop and his temporal or spiritual officers to administer the palatinate in other spheres. Moreover, the judicial reforms themselves did not introduce much in the way of new procedure, nor did they adversely affect the bishop's ability to provide justice within the palatinate. The resumption of the bishop's judicial privileges by the crown affected the administration of justice, but its effects on the palatine records were minimal.[34] The palatinate remained nearly as self-contained as it had prior to the Act of 1536, as changes dictated by the central government needed to be modified, or even reversed, to suit local conditions.[35]

After 1536 the bishop remained the font of justice in Durham. One indication is that the first Durham quarter sessions after the act were recorded using both the regal years of the king and the Episcopal years of the bishop.[36] The quarter sessions on 4 Aug 1545 were held in both the king's and the bishop's name, "37 Henry VIII, King of England, France and Ireland, defender of the faith and Supreme Head on earth of the Church of England and Ireland, and 16 Cuthbert Tunstall, bishop of Durham."[37] A crime had traditionally been described as committed "against the bishop's peace," but at the 1545 sessions, the phrase "against the king's peace" was adopted. The phrase gradually fell out of use during Mary's reign. The words "against the peace" appeared occasionally, but were dropped entirely from the early entries under Elizabeth.[38]

In many ways, the quarter sessions courts in Durham were typical of those in the rest of the country. The sixteenth-century quarter sessions in Durham were held four times a year, and tried cases of murder, assault, theft, vagrancy and numerous other minor

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[34] Emsley and Fraser, *Courts of the County Palatine*, 32.
[35] S.J. Gunn, *Early Tudor Government, 1485-1558* (New York: St. Martin's Press, 1995), 174.
[36] *Durham Quarter Sessions*, 32.
[37] Ibid., 73.
[38] Ibid., 97.

crimes and misdemeanors. The sessions were presided over by the local justices of the peace, where they also dealt with various administrative responsibilities including fixing wage rates and awarding licenses to sell ale. The palatinate's temporal chancellor was the cornerstone of the sessions. He was joined on the bench by several justices of the peace appointed by the bishop from the local gentry and nobility. In every county, royal justices itinerant would join the bench when traveling on their circuits. In the 1545 Quarter Sessions, which coincided with the August sitting of the Northern Circuit of Assizes, the bench was enlarged by the addition of two of the king's justices, John Hynde and Edmund Molyneaux.[39] This practice was not a Tudor innovation, but is documented in the earliest quarter sessions rolls of 1471.[40] During Mary's reign it was standard practice for the queen's justices to sit at Durham. In the sessions of 22 June 1555, the temporal chancellor was joined by Robert Meynell, Justice of Assize, and four local justices of the peace from the palatinate. At the sessions of 12 August 1555, Edward Sanders, Justice of Common Pleas, was part of the bench.[41] The quarter sessions sat again in August 1556 concurrently with the northern circuit and William Dallison, Justice of Common Pleas, and Meynell were on the bench at Durham.[42] While the *Act of Liberties and Franchises* created the bishop of Durham and his temporal chancellor *de facto* Justices of the Peace, it was not until the later reign of Elizabeth that ecclesiastical officers sat as JPs, when Bishop Matthew and the dean of the Cathedral Chapter of Durham, William James, sat on the quarter sessions bench in 1596.[43] What distinguishes the Durham sessions from English counties is that the temporal chancellor, an office

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[39] Ibid., 73.
[40] Ibid., 20.
[41] Ibid., 78.
[42] Ibid., 86.
[43] 27 Henry VIII c. 24; *Durham Quarter Sessions*, 99.

which did not exist in counties, presided over the proceedings, and the bishop appointed the justices of the peace.

In the sessions held from 1510 to 1512, a total of twenty-eight cases were heard before Hugh Asshton, the bishop's chancellor, William Hylton and William Bulmer, esquires, John Rakett and "fellow keepers and justices of the bishop's peace."[44] Presentment juries ranged between twelve and fourteen men from the palatinate to present crimes that had occurred in Durham. During the three years in which twelve sessions were held, thirteen cases of theft and robbery were heard, seven assault cases, two cases of riot, one case involving the right to own chase dogs, and one case of murder in which the jury presented that, "Robert Delavale of Prudhoe, Northumberland, gentleman, on 10 July 1511 at Lintzford, co. Durham, assaulted Gerard Garshopp late of Lintz with force of arms, namely swords, sticks and knives, and struck him on the head with a sword worth 2s. held in his hands, giving him a mortal wound from which he languished until 18 July when he died."[45] Four sets of charges were brought against Robert Tenante, bailiff of Durham, John Robynson, deputy bailiff of Auckland, John Richerdson, bailiff of Gateshead and John Herrison, bailiff of Wolsingham for allowing Scots and vagabonds to roam and remain overnight within the liberty without punishment.[46] The proximity of the palatinate to the northern border made the presence of Scots a grave concern. The other cases, however, were typical of English counties.

In his letter to Bishop Ruthall, Frankeleyn informed him that "on Monday last, kept a sessions of the peace at Aukeland" on 21 June 1518. Although it is not explicit from the phrasing used by Frankeleyn, it is probable that the chancellor presided over

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[44] *Durham Quarter Sessions*, 66.
[45] Ibid., 71.
[46] Ibid., 66-72.

quarter sessions, whose records do not survive. At this session, "six hundred bills of spoils and robberies committed within the bishopric, since the 1st year of the king's reign [1509], were presented," and Frankeleyn expected that there would be more before the arrival of the justices of assize.[47]

New types of offence were brought before the justices at the next recorded sessions held in 1545 and 1546. The judges heard the typical cases of assault (1), murder (2), and theft and robbery (7). At the sessions held on 22 May 1546, the justices, Robert Hyndemar, chancellor, Ralph Hedworthe, knight, and Robert Meynell, esquire, held that Henry Holland of Beamish, Durham, gentleman, blocked a "common way or king's street on the south side of [Beamish] park with a fence and a thorn-ditch, to the nuisance of the common people." The jury also presented that Roland Fewster of Durham, saddler, "in a main road at Durham obstructed a cart drawn by 3 horses belonging to Roger Boith using divers beams deliberately placed."[48] The number of cases involving property or illegal disposition increased to a total of seven.[49] These cases fit into the general pattern of crimes brought to trial in the country in the mid to late sixteenth century. Crimes against persons, such as assault and murder, were much less frequent than cases involving property.[50]

The next quarter sessions records which survive reflect cases occurring from 1555 to 1557 in the reign of Philip and Mary. A total of eighty-nine cases were brought before Robert Hyndemar, temporal chancellor, Robert Meynell, serjeant-at-law, Robert Tempest, Thomas Blaxton, Richard Hebburn, Thomas Trollope and Gerard Salvyn, who

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[47] *L.P.*, 1518, 1319-1322.
[48] *Durham Quarter Sessions*, 75.
[49] Ibid., 73-6.
[50] Smith, *Emergence of the Nation State*, 190.

were all local gentlemen and JPs. The majority of cases involved theft or robbery, eighteen involved offences against property, seventeen of assault, five of riot, five cases of murder, one for the illegal possession of chase dogs, and one case in which a man tried illegally to regulate the price of goods at the market.

While the Durham quarter sessions were the equivalent to the county courts in the rest of the kingdom, the Durham Assizes were comparable to the crown's itinerant courts. Assizes were introduced into Durham as early as the thirteenth century, when the king's justice, Robert Mildred, held sessions in 1235 and 1236. Further assizes and pleas of the crown were held in 1242 and 1243 under Robert Mildred and Richard Duket. Pleas of the crown and assizes were held in 1279 and 1280 under the adjudication of Ralph Neville, Thomas de Hermthon and their fellows.[51] These last assizes were part of the northern circuit of 1279 to 1281 that included the counties of Yorkshire and Northumberland, which heard *quo warranto* proceedings. Recognizances only were received at Durham.[52]

Henry VIII demonstrated a great concern for law and order especially in the north in the beginning of his reign, and frequently issued commissions to the justices of assize during this time. The justices of the Northern Circuit, Humphrey Conyngesby and Robert Brudenell, William Fairfax, Robert Henrison and Thomas Strey, sat in May and August 1509.[53] The justices continued to sit twice a year until 1516, with the exception of 1511 when they sat only once. The justices sat annually from 1517 to 1519, but after that the commissions to the justices became sporadic. They sat only three times in the 1520s in the years 1525, which coincided with the reconstitution of the Council of the

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[51] *List of Plea Rolls of Various Courts: preserved in the P.R.O.* (New York: Kraus Reprint, 1963), 135.
[52] *List of Assize Rolls 1206-1481: preserved in the P.R.O.*, L.I.S. v. 220 (London: Swift, 1986), 108.
[53] *L.P.*, 1509-1513, 31, 68.

North, 1526 and 1527. Only one session for Northumberland held at Newcastle was recorded in 1528.

While there are no printed records demonstrating that the Durham Assizes sat in this period, it is suggested from their traditional practice of receiving their commission from the northern circuit justices that the Durham court was active. Indirect references to the Durham Assizes are also extant. The justices of assize came from York to Durham in 1523 where one man was hanged, from whence they traveled to Newcastle.[54] Thomas Lord Dacre thanked the chancellor of Durham, William Frankeleyn, for his assistance to his servant John More, who was at the last sitting of the Durham Assizes in March 1524 on the lord's business.[55] A letter from the Council of the North to Wolsey dated 27 November 1527, informed the prelate that they had held warden court and sessions of the peace at Newcastle which they adjourned until the next coming of the justices to the Durham Assizes over Lent.[56]

There is also evidence that the Durham Assizes continued to sit separately from those of the kingdom in the 1530s. On 1 May 1532, Justices John Spelman and Christopher Jenney asked the bishop of Durham to confirm their decision at the last Durham Assizes in the dispute between Mr. Laton and John Harkborowe and his wife.[57] A commission of assize was issued on 12 February, and it can be inferred that the Durham justices received the articles of assize from the royal justices by this commission. In a letter dated 29 January 1534, Raynald Beysley informed Lady Anne Salvyn that the temporal chancellor, William Frankeleyn, had fixed the first Friday of Lent for the

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[54] *L.P.*, 1526-1528, 1346.
[55] *L.P.*, 1524-1526, 13.
[56] *L.P.*, 1526-1528, 1624-5.
[57] *L.P.*, 1531-1532, 461.

hearing of her cause of appeal. Beysley had commanded Steven Mylles to defend her, and instructed her to send the fees for the scribe and apparitor to Frankeleyn's notary who made the instrument of appeal.[58] In a letter to Cromwell dated 7 April 1537, Thomas Ellerker reported on the state of the borders and that "there are sessions at Durham Wednesday next" referring to the Durham Assizes traditionally held at Lent.[59]

There are records that the royal justices held sessions at Darlington in Durham on 13 April and 8 December 1538, however, the composition of the bench for both sessions is unknown. It is possible that the justices entered the palatinate without the previous restrictions, or that the temporal chancellor and the bailiff of Durham received the articles of assize. During the time when the trials of the Pilgrims were pending at Durham in 1538 and the palatine judiciary was supposedly defunct, the Durham Lent Assizes sat according to custom with a bench comprised of northern circuit justices and men from the palatinate, justice being held in the bishop's name instead of the king's.[60] At these proceedings, five men from the bishopric were executed.[61] Edward Aglionby informed Thomas Wharton that his case had been prorogued to the sitting of the justices at Durham during Whitsun week 1538 because the council for Lord Dacre refused to show evidence before the justices at York.[62] Assizes were also held at Auckland in the palatinate in September 1538. After sitting at Auckland, the justices traveled to the earl of

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[58] *L.P.*, 1534, 49.
[59] *L.P.*, Jan-May 1537, 387-8.
[60] C.J. Kitching, "The Palatinate and the Courts of Westminster," in *The Last Principality: politics, religion and society in the bishopric of Durham, 1494-1660*, ed. D. Marcombe (Nottingham: University of Nottingham Press, 1987), 51.
[61] *L.P.*, Jan-Jul 1538, 267-8.
[62] Ibid., 286.

Westmorland's residence at Brancepeth where they, along with the earl and Durham's temporal chancellor, heard further complaints.[63]

The Durham justices also held their own sessions of gaol delivery until 1539.[64] The franchise was not included in the royal commissions of gaol delivery until a commission was issued for Norham Castle gaol, which was in the possession of the bishop, on 23 December 1539.[65] Another commission was issued for the gaols of Durham and Sadberge on 3 July 1540.[66] Royal commissions of gaol delivery had only previously been issued for Durham when the bishopric was *sede vacante* such as on 25 March 1317.[67]

The bishop continued to issue his own judicial commissions in the 1530s according to tradition. On 13 August 1534, Tunstall ordered a commission to investigate the accusation by King James V of Scotland that men of the palatinate had despoiled a Scottish ship that had been wrecked on the coast of the franchise. For this purpose, Tunstall appointed men he considered the wisest in the palatinate: William Evers, Thomas Tempest, Dr. Marshall, Robert Bowes and Richard Bellasis.[68] Tunstall also appointed his own justices in 1536, when he asked Lord Lumley, who was to be a justice of the peace at the next sessions, to view a place called Walworth which Sir William Askewe claimed by right of award and which was kept from him by force.[69] Tunstall

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[63] *L.P.*, Aug-Dec 1538, 204-5.
[64] *Register of Thomas Langley*, v. 5, ed. R.L. Storey, S.S., v. 177 (Durham: Andrews, 1962), 111.
[65] *L.P.*, 1539-1540, 301.
[66] Ibid., 467.
[67] *Historiae Dunelmensis Scriptores Tres, Gaufridus de Coldingham, Robertus de Graystanes, et Willielmus de Chambre* ed. J. Raine, S.S., v. 9 (London: J.B. Nichols and Son, 1839), app., cxiv.
[68] *L.P.*, 1534, 414-5.
[69] *L.P.*, Jan-Jun 1536, 479.

continued to nominate the palatinate's other officers, elevating Thomas Sparke to the ecclesiastical office of Bishop Suffragan of Berwick on 12 June 1537.[70]

In addition to issuing commissions and appointing justices, Bishops Tunstall and Pilkington took a direct part in maintaining the peace in the county palatine. In 1537, Tunstall was commissioned along with John Woodhall to receive recognizances in the counties of Northumberland, Westmorland, Cumberland, Yorkshire and the bishopric, the city of York, and the towns of Kingston-upon-Hull and Newcastle.[71] On 19 January 1538, Tunstall imprisoned Brian Woodcock, husbandman, for "reporting seditious tidings and lies" until the coming of the justices from whom he wished to know the penalty such rumours deserved.[72] As a member of the Council of the North, he examined several men at Darlington in 1543; he put them in the stocks with their shoes full of grease against a hot fire, but was unable to learn any more. The examination of these men was repeated before Sir Thomas Hilton, George Bowes and Sir George Conyers, sheriff of Durham, who sent one man to gaol.[73] Tunstall was assigned as a commissioner of the peace for East Riding, Yorkshire in 1547.[74] On 12 May 1555, Tunstall was instructed by the crown to examine the Scottish Lady Ormeston and her retinue who had been captured by the captain of Norham Castle, Mr. Norton, and to commit them to prison to wait for further questioning if he saw fit.[75] On 27 July of that year, Tunstall was involved in the examination of Lord Ormeston and was instructed to detain him until he paid the sum owing to the king and queen, and to inquire about the disposal of the money Ormeston

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[70] *L.P.*, Jan-May 1537, 80.
[71] *L.P.*, Jun-Dec 1537, 285.
[72] *L.P.*, Jan-Jul 1538, 36-7.
[73] *L.P.*, 1543, 487.
[74] *C.P.R.*, 1547, 91.
[75] *P.C. Reg.*, 1554-1556, 124.

obtained from the sale of his hospital.[76] He also adjudicated a dispute between the mayor and burgesses of Newcastle in 1556 regarding the number of aldermen for the city.[77]

In Elizabeth's reign, the crown became more directly involved in the judicial responsibilities in the palatinate. In 1559, the Privy Council requested Tunstall to send them a copy of the indictment of Griffith ap Rice for the murder of Matthew Welsh.[78] Pilkington had several accused pilloried in Newcastle and at Brancepeth, Hexham and Durham on advice of the Lord President of the Council of the North.[79] In February 1564, Pilkington was instructed by the Privy Council to examine James Herdsonne for murder and to send them a report of what had transpired.[80] Thus, with the ascension of Elizabeth, the bishop's actions were increasingly dictated by royal authority. This reflected the pattern of local administration occurring around the country. The jurisdiction over justice in the palatinate, however, remained a grey area. In 1561, Rutland, president of the Council of the North asked Cecil whether the fines levied in the bishopric of Durham were to go to the bishop or to the queen.[81]

The Courts of Westminster were the final courts of appeal for cases originating in Durham, although the palatinate's inhabitants were free to move cases there. Historians have typically taken the number of Durham cases at Westminster as an indication of the degree of independence in the palatine judiciary. There was an increase in cases involving at least one party from Durham in the seventeenth century, but there is no sign

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[76] Ibid., 166.
[77] *P.C. Reg.*, 1556-1558, 33.
[78] *C.S.P. For*, 1558-1559, 92.
[79] *C.S.P. For*, 1560-1561, 225.
[80] *P.C. Reg.*, 1558-1570, 195.
[81] *C.S.P. For*, 1561-1562, 38.

that this trend began between the Act of 1536 and the death of Henry in 1547.[82] A list of Star Chamber proceedings before 1558 illustrates that there were very few cases involving the courts of Durham. A defamation case was brought by Robert Dokkysford of Northumberland in 1529. The defendant, Lawrence Fobury, also of Northumberland, had previously cited the plaintiff before the palatine courts and had also tried to murder him.[83] On 23 January 1553, four men from Durham made their appearance before the Star Chamber.[84] The Chancery records from the reign of Elizabeth show an increased number of cases involving parties from Durham, none of which appear in the calendars before 1569.[85] The pleas primarily consisted of recognizance of debt involving private parties, many of whom had landed interests outside of the palatinate.[86] Durham cases at Westminster began to increase in the reign of Edward VI, the most plausible explanation for which can be found in the momentary dissolution of the diocese from 1553 to 1554, rather than in the previous statutory usurpation of the bishop's powers by King Henry in the *Act of Liberties and Franchises*.

The partial disengagement of the Durham legal system from that of the kingdom continued well into the 1550s. On 26 February 1555, the queen's lieutenant in the north, the Earl of Shrewsbury, was informed that Percival Lumley was causing trouble to his tenants by bringing cases against them before the King's Council at York. Since Percival

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[82] *Select Cases in Star Chamber, v. 2, A.D. 1509-1544*, ed. I.S. Leadam, Sel. Soc., v. 25 (London: B. Quaritch, 1910); *Select Cases in the Court of Requests A.D. 1497-1569*, ed. I.S. Leadam, Sel. Soc., v. 12 (London: B. Quaritch, 1898); *Select Pleas in the Court of Admiralty, v. 1, A.D. 1390-1404 and A.D. 1527-1545*, ed. R.G. Marsden, Sel. Soc., v. 6 (London: B. Quaritch, 1892), *passim*.

[83] *A Handlist of Star Chamber Pleadings before 1558 for Northern England*, eds. R.W. Hoyle and H.R.T. Summerson, L.I.S. v. 299 (Kew, Surrey: List & Index Society, 2003), 13.

[84] *P.C. Reg.*, 1552-1554, 391.

[85] *Cases Concerning Equity and Courts of Equity, 1550-1660*, v. 1, ed. W.H. Bryson, Sel. Soc., v. 117 (London: Selden Society, 2001), *passim*.

[86] See for example, Clarke v. Bowes, Conyers and Wanusforthe, who had interest in Durham, Yorkshire and London in *Chancery Common Law Pleadings C43, C44*, L.I.S., v. 67 (London: Swift, 1983), 74.

and his tenants were all inhabitants of the county palatine, it was ordered that the cases be heard in Durham.[87] As late as 23 August 1558, there is an indication that the justices of assize continued to sit separately in Durham. A letter sent to Tunstall informed the bishop that an inquest before "the Justices of Assize in that county palatine" would appear in the Star Chamber during the next legal term on appeal for acquittal.[88]

Durham maintained its statutory immunity in judicial matters well beyond the Cromwellian reforms, and into the early part of Elizabeth's reign. Letters patent issued by Mary on 4 June 1558 instructed that inquiries be made into the behaviour of French denizens and commanded the chief justices of the bishopric of Durham and the Isle of Ely to make similar commissions and to return comparable certificates to the chancery.[89] Several early Elizabethan statutes acknowledged that the queen's writ did not run in Durham and made special provision for similar measures to be carried out in the bishopric and the other county palatines. The *Act for the due execution of writ de excommicato capiendo* of 1563, legislated that,

> forasmuch as divers persons offending in many great crimes and offences, appertaining merely to the jurisdiction and determination of the ecclesiastical courts and judges of this realm are many times unpunished for lack and want of the good and due execution of the writ...that every writ that shall be granted and awarded out of the high court of chancery against any person or persons within the realm of England, shall be made in the time of the term, and returnable before the queen's highness, in court commonly called the King's Bench.

The act also acknowledged that the queen's writ did not run in Wales, the counties palatine of Chester, Durham, Lancaster, Ely and the Cinque Ports, that, "being jurisdictions and places exempt [from] where the queen majesty's writ does not run, and

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[87] *P.C. Reg.*, 1554-1556, 236.
[88] *P.C. Reg.*, 1556-1558, 382.
[89] *C.P.R.*, 1558-1559, 13.

process of *Capias* from thence not returnable into the said court of King's Bench."[90] The *Act for the enrollment of Indentures of Bargain and Sale in the Queen's Courts,* issued later that year, both acknowledged the legal immunity of the palatinate's judiciary and further incorporated its administration into that of the country. The act required that lists of all bargains and sales of lands and tenements be submitted in writing to one of the king's courts of record at Westminster. It did not extend to the county palatines of Chester, Lancaster and Durham, but legislated that the bargains and sales in Durham would be entered in the Durham court of chancery or before the justices of assize.[91]

The other venue in which the bishop could regulate the behaviour of the palatinate's inhabitants was the diocesan ecclesiastical courts, which remained active throughout the reformation period. During the episcopate of Tunstall, twenty-two cases appear in his register, the majority of which dealt with accusations of defamation. There was only one case of heresy in the diocese, in 1530 when a Newcastle merchant, Roger Dichaunte, was accused of holding Protestant beliefs.[92] Four other cases dealt with marriage causes and three with fornication. Bishop Pilkington also regularly held his ecclesiastical court, handling forty-nine cases between 1561 and 1569, thirty-two regarding defamation and five with marriage.[93]

The palatine courts of chancery and exchequer, and the criminal courts continued to administer justice effectively in the mid-sixteenth century. The *Act of Liberties and Franchises* did not introduce new judicial procedures into the palatinate, but rather reinforced the traditional interconnection of the Durham judiciary with that of the crown.

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[90] 5 Eliz. C. 23
[91] 5 Eliz. C. 26.
[92] *The Registers of Cuthbert Tunstall, bishop of Durham 1530-59, and James Pilkington, bishop of Durham 1561-76*, ed. G. Hinde, S.S., v. 161, (Durham: Andrews, 1952), 34-6.
[93] Ibid., 140-68.

The Durham judicial system had never been completely independent. The assumption that it was has led historians to conclude incorrectly that the authority of the palatinate was terminated following the Act of 1536. There was nothing to terminate, if that authority was misunderstood as having been a kind of absolute independence from royal interference. The palatinate offered the inhabitants of the north a local court that provided judicial remedies and procedures equal to that of the kingdom. At the end of the first period of reformation, the crown had acquired the authority to pardon criminals convicted in the palatine courts, but pardons were exceptional, and the crown was limited to occasional interference. The everyday administration of justice in Durham remained in the hands of the bishop. He appointed justices of the peace, continued to issue judicial writs from his chancery and to hold sessions of the peace. The judicial duty of the prelate was a crucial facet of the bishops' secular administration of the palatinate, and complemented their episcopal functions.

Conclusion

It has only been within the last decade or so that historians have begun to question the historiographical orthodoxy about Durham established so firmly by G.T. Lapsley at the beginning of the twentieth century. The palatinate of Durham was by no means in decay by the end of the fifteenth century, nor was it defunct after the *Act of Liberties and Franchises* of 1536. The local courts continued to function and thrive, led by the bishop and his officers. Certainly, the changes of the thirty years from the reign of Henry VIII to that of Elizabeth - the dissolution of the monasteries and the collegiate churches, the temporary abolition of the bishopric, the act of exchange and the royal visitation of 1559 - had an enormous impact on the bishop's administration of the palatinate, but, it was not a period that signified the end of the palatinate, only a transition in its functions and the role of its leading officials.

Durham in the mid-sixteenth century was dominated by the relationship between the crown and its leading magnates. This thesis has concentrated on the ecclesiastical magnates of the palatinate, who were also the leading administrators of the county's local government. To focus on the fall of the great secular houses in the north in the 1530s, such as the Percys and the Dacres, is to overlook the important stabilizing role of the bishops. The conflicts that emerged between Cuthbert Tunstall and, successively, Henry VIII, the duke of Northumberland and Elizabeth I, are not unique to this period, nor to English history. There was a long history of turbulent relations between the most wealthy and powerful northern ecclesiastic and his monarch. Crown attacks on the bishop's prerogative usually arose out of personal conflicts rather than systematic plans for the homogenization of government. Tunstall's clashes with his monarchs resulted

from his own religious views. Pilkington, who was devoutly protestant, on the other hand, did not conflict with Elizabeth over religious matters. He was, however, required to fend off the crown's insatiable appetite for further financial revenues through the appropriation of part of the bishop's temporalities, a reality that affected all England's bishoprics, palatine or otherwise.

Yet even this relationship should not be seen as solely or primarily adversarial; it also involved cooperation, compromise, and most importantly respect and appreciation of tradition. Tunstall was a close religious advisor of Henry VIII and Mary. He was also a strong ambassador serving on diplomatic commissions to the continent and to Scotland, and served domestically as president of the Council of the North. Pilkington was closely involved in the creation of doctrine for the Elizabethan church. Tunstall's temporal chancellor, William Frankeleyn, was also a trusted administrator of justice. It is incorrect to understand noble-crown relations as inherently antagonistic, when for centuries the crown required the cooperation of the provincial nobility to govern, as it did in Durham, a dependence that was always accentuated in the northern borders.

The most powerful agent of change in Durham was the political and religious reformations of the mid-Tudor period. The reformations did indeed reduce the bishop's patronage and adversely affect his local influence. The traditional culture of the region, which centred on the cult of St. Cuthbert, was affected by the crown's denunciation of the cult of saints and the destruction of Cuthbert's shrine. A study of Durham in the early Tudor period must thus emphasize the parallel processes of political and religious reformation that were occurring simultaneously. The region was unique in the sense that the religious reformation carried additional political consequences for local governance

that did apply elsewhere. It also reinforces the notion that the reformations cannot be characterized as propagated and instituted by one social group, but that their progress was varied, and their impact mediated by local officials and modified to suit regional needs. In the country as a whole, the reformations subordinated the church to the crown in land ownership, wealth and doctrinal matters. Elizabethan and Stuart wishes notwithstanding, religion did not become a unifying force after the reformations, as a number of minor religious sects would eventually emerge around the country. The mid-Tudor reformations were no more successful in establishing a completely unified English nation state. Historians have successfully challenged the traditional view of the revolutionary character of the 1530s, according to which the decade saw the creation of a modern state under the leadership of the king's first minister. Political reforms continued to occur in the reigns of Edward, Elizabeth and their Stuart successors, and the durability of some medieval administrative practices has been well demonstrated by a succession of scholars from Gerald Aylmer to Derek Sayer.[1] The reformation processes cannot be isolated to one particular period in English history, but extend well beyond the Tudor era.

Despite the changes wrought by the reformations, the bishop of Durham retained a substantial degree of control over the local administration of justice. The most significant was his ability to appoint justices of the peace until the municipal reorganization of 1836, since the responsibilities and social importance of the justices grew exponentially in the late sixteenth and seventeenth century. Thus, the bishop was able to retain an office of growing importance under his patronage. The bishop and his chancellor remained the font of justice after the *Act of Liberties and Franchises* of 1536,

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[1] G. Aylmer, *The King's Servants: The Civil Service of Charles I, 1625-1642* (London: Routledge & Kegan Paul, 1974); D. Sayer and P.R.D. Corrigan, *The Great Arch: English State Formation as Cultural Revolution* (Oxford: Blackwell, 1985).

which theoretically devolved the bishop's jurisdiction to the crown. In practice, the bishop and his chancellor continued to preside over quarter sessions, hold assizes in the bishop's name and issue commissions of the peace. The number of cases involving parties from Durham at the Westminster courts remained relatively low even in the late sixteenth century. The Privy Council and the Council of the North gradually gained more direct control over the administration of justice in the peripheries.

The monastery also continued to play a significant role in the daily lives of the palatinate's inhabitants. The crown's condemnation of the cult of saints attacked the justification for the foundation of the monastery, which was symbolized in the destruction of St. Cuthbert's shrine and the re-dedication of the cathedral church. Despite losing the symbolic weight of its patron saint, the monastery continued to serve the same social functions, such as education and spiritual guidance, as it had prior to its dissolution and re-foundation. The necessity of providing for the monastery continued to dominate local economic life until after the Union of the Crowns and the cessation of Anglo-Scottish warfare opened up the borders to trade with southern Scotland in the early seventeenth century. The monastery's role is important for understanding the religious culture and social dynamics of the region.

Further questions remain regarding the administration of Durham in the Tudor period and the significance of the existence of the ecclesiastical palatinate for early modern state building. Firstly, the relationship between the bishops as spiritual peers and the monarchs needs to be more fully explored, and particularly the development of that relationship in the seventeenth century. Secondly, recent historiography on state formation in early modern England has tended to focus on not only the territorial

expansion of the crown's control but also the accompanying expansion of English culture.[2] The question arises, therefore, to what degree does Durham fit into this emerging idea of British state formation? Unlike the northern borders with Scotland, or Wales and its marches, it was not necessary to introduce English values such as language, common law and civil culture into Durham. In this sense, Durham was already a part of the English state. Traditionally, historians have tended to argue that the north did not share in the civilized culture of lowland England, but retained a highly militarized society that was displayed in the Northern Rebellion of 1569. It is necessary to reconsider to what degree this rebellion is representative of civility in the north, particularly when the northern magnates failed to obtain widespread support for their movement. The power vacuum created by the decline of the northern nobles following their failed rebellion was filled by the bishops of Durham, who exercised even greater authority in the late Tudor and Stuart periods. Indeed, it was widely recognized that the bishop of Durham exercised extensive local authority, as evident in the reference to the powers of the bishop in the founding charter of Maryland.

Lastly, what is the significance of the endurance of a semi-autonomous region for theories about early modern state building? It is not satisfactory to argue that the palatinate was an example of the regional variation that permeated the country in the sixteenth century. Durham was distinctive not only in religious culture and economic livelihood, but also in the very social structure of the community in which the bishop functioned as the head of local government. There was no parallel for such a system in

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[2] See, for example, M.J. Braddick, *State Formation in Early Modern England, c.1550-1700* (Cambridge: Cambridge University Press, 2000), 341; T. Thornton, "'The Enemy or Stranger, that shall invade their Countrey': Identity and Community in the English North," in *War: Identities in Conflict 1300-2000*, eds. B. Taithe and T. Thornton (Stroud: Sutton, 1998), 59.

the rest of the country where the authority for local governance was vested in a single person who was also an ecclesiastic. Future research on Durham needs to examine this dual role of the bishop in the late sixteenth and seventeenth centuries and its consequences for early modern state building. The study of the administration of the palatinate in the late Elizabethan and Stuart periods will provide new insight into the development of the state during the "long seventeenth century."

The bishops and their officers continued the daily administration of the palatinate and the administration of justice throughout the reformations of the mid-Tudor period and well into the modern era. Durham treads the thin line between change and continuity, both prominent themes in the history of England during the sixteenth century. The administrative structure of Durham was not jeopardized by the reforming measures of Henry VIII and Cromwell. The greatest challenge to the palatinate resulted from the personal conflicts that arose between the bishops and their sovereign, particularly under the minority reign of Edward VI. The dissolution of the palatinate in 1553 proved only temporary, and neither the policies of Mary or Elizabeth posed a serious threat to the existence of a palatine administrative structure in Durham. Although, their ecclesiastical patronage was curtailed, along with that of other prelates, the bishops suffered no great diminution in local authority. Their episcopal jurisdiction was no more affected than that of any other prelate, and their secular jurisdiction was not directly attacked, but indirectly diminished as a consequence of the religious and political upheavals. The history of the palatinate in the Tudor period rests in the relationship between the bishop and the monarch and on the personal ability of the bishop to steer the palatinate through a

tumultuous period in the nation's history. Tunstall and Pilkington and their officers proved capable of bringing Durham intact into the seventeenth century.

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Appendix A

List of the Bishops, Priors, Deans and the Temporal Chancellors of the Bishopric of Durham in the mid-Tudor Period (1509-1569)

Bishops of Durham

Thomas Ruthall	1509-1523
Thomas Wolsey	1523-1529
Cuthbert Tunstall	1530-1559
James Pilkington	1561-1576

Priors of the Cathedral Monastery of Durham and Deans of the Cathedral Chapter of Durham

Hugh Whitehead	*Prior*	1524-1539
	Dean	1541-1548

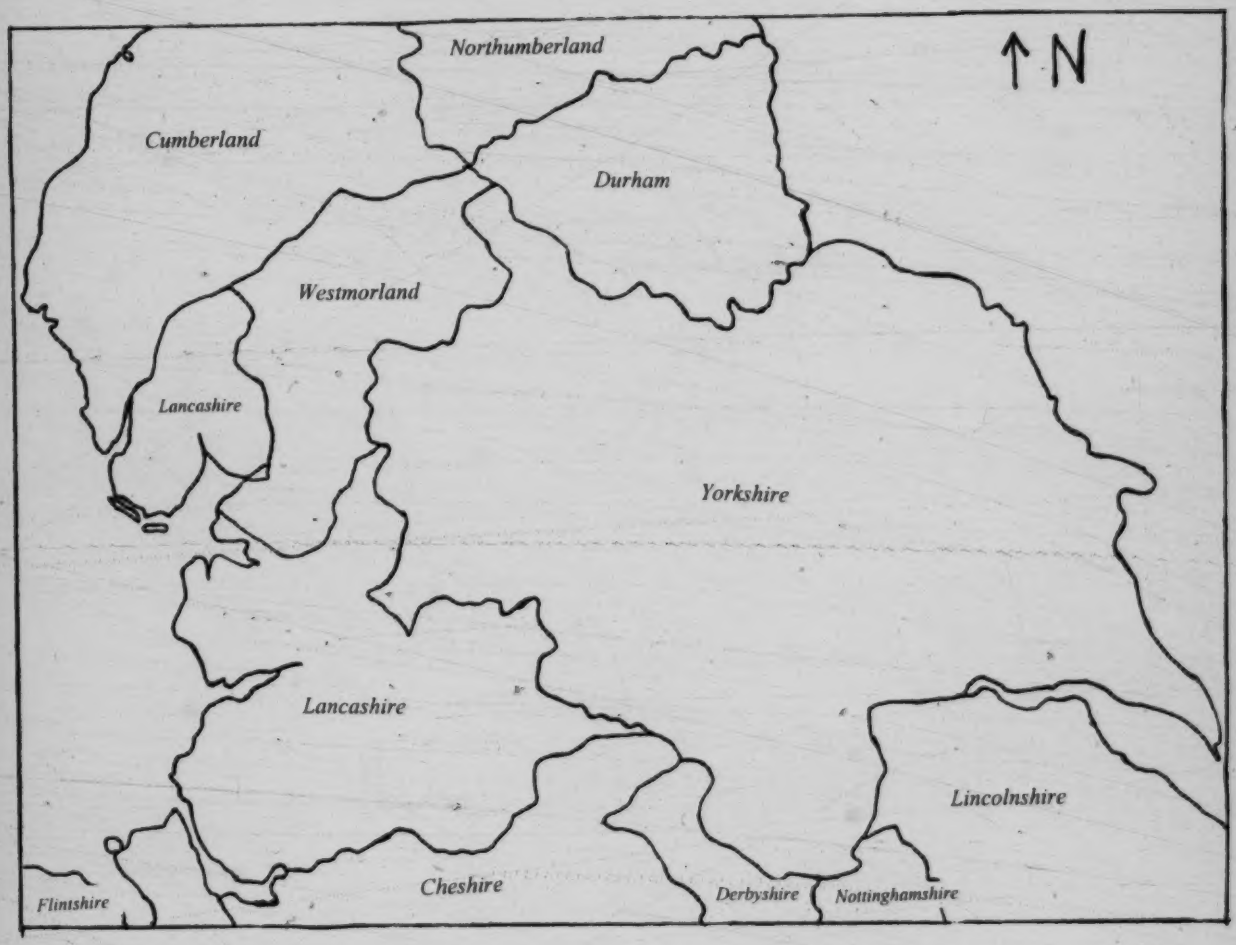
Deans

Robert Horne	1551-1553
Thomas Watson	1553-1558
Thomas Robertson	1558-1559
Robert Horne	1559-1560
Ralph Skinner	1561-1563
William Whittingham	1563-1579

Temporal Chancellors of the Palatinate of Durham

John Withers	1507-1509
Hugh Asshton	1509-1514
William Frankeleyn	1514-1553
Robert Hyndemar	1553-1556
Robert Meynell	1556-1560
Ralph Skinner	1561-1563
Thomas Layton	1563
Thomas Calverley	1563-1605

The Palatinate of Durham in the Early Modern Period



The Counties of Northern England in the Early Modern Period